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Media Framing of Wrongful Convictions

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Media Framing of Wrongful Convictions

A Thesis Presented in Partial Fulfillment of the Requirements

for the Master of Arts in Criminal Justice

John Jay College of Criminal Justice

City University of New York

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Abstract

Wrongful convictions are a major issue hindering the effectiveness and legitimacy of the criminal justice system. The topic has become a focus of media attention. Among the issues raised are the contributing factors to wrongful convictions, such as false confessions, false or misleading forensic evidence, official misconduct, mistaken witness identification, and perjury or false accusations. The following study examines how media frames these contributing factors of wrongful convictions using Loseke's social constructionist framework, which is useful for deconstructing the issue's diagnostic, motivational and prognostic frames—that is, how media consumers assess the causes, solutions, and the reasons to act to address the given social problem. Media framing is one of the most influential perspectives in the area of media criminology. In short, through framing, the media can shift public perceptions of the social problem of wrongful conviction by emphasizing some aspects at the expense of others. Therefore, the study will analyze *New York Times* articles to identify whether the media's framing of the contributing factors of wrongful convictions is proportionate to the official data collected by the National Registry of Exonerations, a project founded by the University of California and University of Michigan to provide detailed information about every known exoneration in the United States since 1989.

Keywords: wrongful convictions, media framing, contributing factors

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Introduction

In 2016, a stunning 166 Americans were exonerated following wrongful convictions. This raw number represents roughly a 15% rise in wrongful convictions since 2015, when the number was 149, and exonerations are only increasing (The National Registry of Exonerations, 2017, p. 3) (See Table 1). Wrongful convictions constitute a tremendous mistake made by the justice system, one that has cast innocent people behind bars for an average of 20 years (The National Registry of Exonerations, 2017). The problem of wrongful convictions only emerged as a public issue in 1989, when attorneys Barry Scheck and Adam Neufeld founded the Innocence Project (Innocence Project, 2017 “About”). The Innocence Project is one of the leading non-profit organizations examining court records of convictions for potential mistakes - such as fraudulent forensic evidence testimony, perjury/false accusations, police, and prosecutorial misconduct - to discover and exonerate people who have been wrongly convicted of crimes.

Gary Dotson was the first person to be exonerated based on DNA evidence (Bluhm Legal Clinic, 2017). Dotson was wrongly convicted of rape and aggravated kidnapping, sentenced to 25-50 years, and exonerated in 1989 with the help of the Innocence Project (Innocence Project, 2017 Gary Dotson). Dotson’s case got heavy media attention. The first example of recognition that the case received was in a *New York Times* article published in 1985 with the headline - “Convict in Rape Case Makes Clemency Plea,” and the media closely followed the case thereafter (UPI, 1985). This case was the first glimpse of the idea that decision making in the justice system was so flawed that it could not distinguish between a guilty and an innocent person (Matthews, A., 2017).

As more wrongful conviction cases evolved, each was discussed in various media outlets, and eventually by scholars and researchers (Walker, 2015, p. 76). Over time, as

wrongful conviction cases gained “popularity,” they fell under the category of “celebrated cases” (p. 76). The media focus not only on the defendant, but also on the causes of wrongful conviction (Rosen, 1992). In other words, wrongful conviction cases that receive high-media attention open the doors to the media to extend their discussions about the justice system officials involved and the mistakes they have made which led to wrongful convictions.

Of course, the media’s primary concern is to catch the public’s interest; the significance of the media lies in the fact that it can shift public perceptions on the issue of wrongful convictions and legitimacy of the justice system (Warden, 2002, p. 805). Over time, the public showed great interest for media’s coverage and involvement in uncovering the innocent spending years in prison (Naughton & Tan, 2010, p. 65). Following the public’s appetite, the media continued covering other aspects of wrongful convictions including contributing factors (Warden, 2002, p. 805). However, because the media closely follows the public’s interest, it may run into the risk of focusing more on the contributing factors of wrongful convictions that are of great interest and can be easily grasped by the consumers, rather than the contributing factors that should be brought to the public’s attention. For instance, according to the Innocence Project, one of the primary contributing factors of wrongful conviction is witness misidentification. It is expected that the majority of media coverage of wrongful convictions will focus on this contributing factor. In addition, it is expected that the audience will be primed to consider reforms that target police procedures for collecting information from witnesses and for police line-ups to ensure that the witness or victim will not implicate an innocent person.

However, as will be shown in what follows, the media framing leads to inaccurate public perception of the primary causes of wrongful convictions and an overall shifted perception about the justice system, making it look less reliable than before (Warden, 2002 p.

804). As a result, the public may seek reforms to target contributing factors that the media covers more often while others were overlooked.

There have been some attempts to study the causes of wrongful convictions (Findley 2010, Yaroshefsky 2004, Warden 2002), but these studies have not focused on distinct types of frames that the media uses to discuss the contributing factors of wrongful convictions. In addition, there is a lack of research examining whether the amount of media content (which shows how media depicts causes of wrongful convictions) is proportionate to the number of exonerations caused by each contributing factor recorded in the National Registry of Exonerations.

In this regard, the **main purpose** of this study is to examine whether media (*New York Times* newspaper) framing of contributing factors of wrongful convictions proportionate to the rate of contributing factors recorded in the National Registry of Exonerations. The primary focus is to understand whether media content about contributing factors of wrongful convictions, which the public consumes, is reflective of the official data, since said content shapes public perceptions. The research question will be answered using content analysis of newspaper articles. The uniqueness of this study is that this specific issue has not been studied before. Similar studies will be reviewed to give a better sense of what this study is set to do.

Theoretical Framework

The idea that the media shapes public opinions was discussed by Berger and Luckmann (1966) who proposed Social Constructionism Theory. The theory argues that media plays its role in the “social construction of reality,” and thereby shapes public opinion. In other words, media has the ability to shift public perceptions about an issue by discussing it from a specific perspective and justifying the accuracy of their perspectives, using

statements made by influential figures, such as officials who proposed solutions to the discussed issue (Berger & Luckmann, 1966, p. 58). As a result, because media outlets are the primary source of information in society, they provide the element responsible for the formation of public's perceptions and opinions.

When it comes to the issue of wrongful convictions, the media communicates with the public about the mistakes the justice system has made which led to the imprisonment of an innocent person. As it further discusses the contributing factors of wrongful convictions, the media builds opinions about the issue of wrongful convictions and the legitimacy of the justice system. As stated by Berger and Luckmann (1966), the media can construct public opinion by framing the issue of wrongful convictions and its contributing factors in a certain way. For instance, in the 1989 *New York Times* article "Overturned Murder Conviction Spotlights Dallas Style Justice", discussing Randall Adams case, there was a distinct quote: "the feeling of the prosecutors in Dallas back then was that we can't be wrong, that basically we're gods in decreeing who shall live and who shall die, who goes to prison and who goes free" (Applebome, 1989, March 07). It describes the mentality of Dallas prosecutors at the time Adams was wrongly convicted. It also describes the environment in the justice system in Dallas, and how in the past it was considered that they have the power over people's lives, including framing them for the crimes they have not committed. As a result, the media shifts public's perception about the Dallas' justice system, by focusing on its practice of exercising their power of confidently prosecuting people, including those who are innocent.

Social constructionism fits with this study's purpose in examining the media's framing of contributing factors of wrongful convictions since it argues that the media's use of framing influences public perceptions on this issue. In other words, the media contributes to tunnel vision when it does not expose audiences to other viewpoints. By disproportionately

highlighting only certain contributing factors, the media leads the public to have an inaccurate perception of the given issue.

Review of Literature

Defining Wrongful Convictions

The definitions for the term wrongful convictions include a list of factors relevant to such cases. The most basic definition is a “conviction of factually innocent persons” (Zalman, 2017). This definition points out the fact that there are wrongful conviction cases where the convicted “criminal” is actually innocent, the victim of the justice system that sentenced him for a crime he did not commit.

Besides official sources on wrongful convictions, other studies examine the definitional issue of wrongful convictions and how they impact the society’s perspectives on such cases. Certain articles, for instance, tackle the existing definitions and provide their own. For instance, Bandes (2008) examines a debate over the proper and accurate definition of wrongful convictions. Specifically, in 2008, a *New York Times* article stated that the term wrongful convictions is not accurate and should be changed to “unlawful convictions,” considering cases where the officials, including police and prosecutors, have committed a list of violations and framed an innocent as the guilty (p. 5).

However, Zalman (2017) also states that the term is “ambiguous,” and therefore, a more accurate term for cases of innocent persons who have been convicted for the offense they have not committed is “false convictions” (Zalman, 2017). The National Registry of Exonerations, a project founded by the University of California and University of Michigan, also refers to wrongful conviction cases as false convictions when summarizing and recording cases for the public use. Since partial data for this study will be obtained from the National Registry of Exonerations, wrongful conviction cases will be defined in this study as

“exonerations of innocent criminal defendants” (The National Registry of Exonerations, 2018).

Another term that is closely related to wrongful convictions is “exoneration.” According to the National Institute of Justice (NIJ), there is also a definitional issue with this term as well. Specifically, in 2010, the NIJ gathered a multidisciplinary expert working group to discuss how various countries define and address wrongful convictions. During the discussions, the group concluded that the term “exoneration,” which is used to describe the process of the court declaring a defendant once found to be guilty of committing crime as innocent, lacks a universal definition, and they recommended that more studies on wrongful convictions and exoneration should be conducted which will lead to constructing a universal definition for the term.

Moreover, Findley (2010) argues that besides “wrongful conviction” and “exoneration,” another term that should also be examined is “innocence,” as it reflects the most important feature of wrongful conviction cases, which is used to differentiate them from other types of cases. However, when citing various research conducted in examining the term “innocence,” Findley (2010) found that innocence can be divided into three categories: “actual innocence, factual innocence, and legal innocence” (p. 1160). He further argues that when the court declares someone innocent, it doesn’t specify under which category the defendant falls.

All of these terms are constantly used by the media when discussing wrongful convictions. However, if there is a lack of universal and accurate definitions, then the public, when learning about a yet another wrongful conviction case, may have a different perception since they are open to many definitions that can conflict with one another. As a result, if an article discusses a wrongful conviction case and the reporter states that the court found the

defendant innocent and he is now considered to be exonerated, various groups of the public will have their own interpretations of the defendant's innocence. In other words, the public may construe the newly exonerated as a perpetrator who got away from spending full sentence due to some legal technicality.

Contributing Factors of Wrongful Convictions

According to the National Registry of Exonerations, there are currently five recorded contributing factors of wrongful convictions: (1) Perjury and False Accusations, (2) Official Misconduct, (3) Mistaken Witness Identification, (4) False or Misleading Forensic Evidence, and (5) False Confession. Each of the contributing factors identifies a different problem or mechanism to be addressed, with consequences for how the public comes to understand the problem of wrongful convictions. This section examines each one of these factors and places it in context of reform legislation. In other words, more than 20 states have taken action to prevent one of the significant causes of wrongful convictions, yet there have been a series of implementation failures, which resulted in annual increases of the rate of wrongful convictions (Norris, et al. 2017, p. 7).

Perjury and False Accusation

When it comes to perjury or false accusations, the media is left with holding either the witness or the victim of the crime responsible for sending an innocent person to prison. According to the federal statute 18 U.S.C. §1621 & 1623, perjury refers to “false statements made to the judicial branch” of government (United States Department of Justice, 2018) false accusations are similar to perjury in that the statements made are false, but they involve statements accusing a person of committing a criminal act (False accusations, 2018).

According to the National Registry of Exonerations, as of 2018, perjury and false accusations have been a contributing factor in 57% of wrongful conviction cases that were later exonerated (See Table 2) (The National Registry of Cases, 2018). Based on this data, the

testimony/recantation of the victim, witness or prison informant plays a significant role in a sentencing decision, yet there is currently no criteria that the court may use to judge the reliability of the given testimony before it leads to wrongful conviction (Kane, 2007, p. 31). Nevertheless, federal statute 18 U.S.C. §1621 & 1623 criminalizes perjury in the courtroom and allows the judicial branch to prosecute those who have made false statements to the court (United States Department of Justice, 2018). The perjurer can be fined or imprisoned for a maximum of five years (Cornell Law School, n.d).

However, it has been found that the above statute has not been as effectively enforced. Even in the past, perjury was considered to be “one of the most difficult crimes to establish within the law to the satisfaction of juries” (Hibschman, 1933, 901). Roberts (2003) notes that traditionally, perjury is committed not just by the individual providing perjured testimony, but also by officials, usually the prosecutor as he is likely to train the victim or the witness on how to give a false testimony in the court. He further notes that because jury members are unaware that they are listening to a false testimony, their presence in the courtroom during the trial is not an effective deterrent for the perjurer testifying in front of the court. As a result, due to lack of oversight, perjury has been found to be the most significant contributing factor in wrongful convictions (The National Registry of Exonerations, 2018).

Nevertheless, there are currently three provisions which were established to control perjury and false accusations: “imposing demanding requirements on prosecution knowledge, limiting what is regarded as false testimony, and holding defendants to an inappropriate standard of materiality” (Poulin, 2011, p. 334). However, Poulin (2011) argues that they are not effective; all three provisions are considered to be impractical and too soft on police perjury and false accusations in the courtroom. For instance, a sanction that criminalizes a prosecutor’s knowledge of victims’ or witnesses’ false statements in court is ambiguous. In

the current provision, a prosecutor's lack of knowledge is not being sanctioned, but his knowledge the fact that witness or victim have perjured in court, which can rarely be proven by facts. For instance, a burglary case from Indiana is illustrative. Nicole Greenlee was caught on surveillance of breaking into a store and stealing \$3500. During the arraignment when she pled guilty, she testified that she was the sole actor in the crime; however, when she was tried before the jury, she testified that her ex-boyfriend Antonio Smith was her accomplice and that he broke into the store, while she stole the money. The court noted that because Greenlee's testimony during arraignment and at the trial described different course of action, the prosecutor knowingly used perjured testimony at the trial, as he put the defendant on the stand (*Antonio Smith v State of Indiana*, 2014).

Further, in terms of what falls under the umbrella of false testimony, different courts have their own interpretations. For instance, courts can dismiss a case when they find out that victim or witness gave false statements, or advise the jury to ignore it and go on with the hearing (Pearce & Brown, 2017, p. 25) However, ignoring the statements and moving on with the trial totally ignores the defendant's due process rights. In other words, the determination of the testimony or evidence value impacts whether the trial will continue. Specifically, various courts, instead of protecting the defendant's due process rights, are rather evaluating the value of the false testimony. As a result, if the false testimony has a direct and significant impact on the jury's verdict, then the judge can order a new trial or dismiss the case; but if the judge decides that the given false testimony does not have an impact on the jury, then the case continues (DeVore, 2011).

There are obvious flaws in the last provision. First of all, this is not what is mentioned in the Bill of Rights when it comes to the defendant's due process rights. Second, since the future of the case depends on the judge's decision, what one judge may view as an invaluable false testimony, the other judge may consider to have a strong impact and dismiss the case

thus placing the whole process and the future of the case into the hands of one judge. In addition, it is the defendant's burden to prove that all three provisions are in place which makes it even more impractical (Poulin, 2011). Specifically, a defendant who is now convicted based on false testimony has to find means to prove his innocence as well as the presence of perjury or false accusations in his case (Poulin, 2011, p.441).

There are different ways of identifying and reporting the presence of perjury and false accusations in criminal cases. In addition, identifying perjury or false accusations can lead to the discovery of other violations, which lead to victims' or witnesses' giving false statements against the defendant, as well as the prosecutor's use of such testimonies in the courtroom. Besides other violations may include violation of defendant's due process rights, confusion during trial leading to harsher sentencing, as well as other legal violations such as misleading forensic evidence, prosecutorial misconduct, and ultimately wrongful conviction.

Official Misconduct

After perjury and false accusations, official misconduct is the second most common contributing factor to wrongful convictions (See Table 2). Specifically, official misconduct is when "police, prosecutors, or other government officials significantly abused their authority or the judicial process in a manner that contributed to the exoneree's conviction" (Bluhm Legal Clinic, 2018). In other words, because criminal cases are investigated and presented by the police and prosecutors who have privileged access to case details including the people involved in the case, they are prone to abuse their authority to close the case by fabricating evidence to send an innocent person to prison (Chin & Wells, 1997). Specifically, under the Mollen Commission in 1994, it was found that police misconduct includes "testimonial perjury, documentary perjury, and falsification of police records" (Chin & Wells, 1997, p. 234). In addition, according to the California Innocence Project, "police misconduct is systematic" which means that they are prone to commit more than one offense when

investigating a case (California Innocence Project, 2018). The case of wrongly convicted Timothy Atkins is illustrative. Atkins was wrongly convicted of robbery and murder in California, 1987 and sentenced to 32 years to life. In addition to the victim's mistaken identification of the defendants as the perpetrators, a witness, Powell, who was a cocaine addict, falsely accused Atkins and another wrongly convicted in the robbery and murder because the police threatened to charge her with drug possession. In this case, the witness, Powell, was not a credible source of information; yet, at the trial, her testimony was enough to convict an innocent man who spent 20 years incarcerated before being exonerated in 2007 (Possley, 2017). In other words, police use of "heavy-handed tactics" to generate false evidence to close a case can lead to the conviction of an innocent person (Thompson, 2012, p. 329). Unfortunately, there are many similar cases recorded in the National Registry of Exonerations, but there may be unknown cases of people who were in a similar situation and are in prison for a crime they did not commit. Therefore, there is a need to reform police procedures when investigating and obtaining evidence in a criminal case.

As a result, Covey (2013) examined how police misconduct impacts wrongful convictions. After examining two scandalous exonerations which uncovered police misconduct, Covey found that wrongful convictions due to police misconduct occur in cases where the defendant was charged with a crime against a police officer, such as "assault on police officers, charges of disturbing the peace, [and] resisting arrest" (p. 1185). Since crimes against a police officer make up a major aggravating factor in a case, individuals who were innocent but suspected of a crime are unlikely to sound as credible as a police officer who is also a victim testifying in the courtroom. As a result, Covey (2013) found that the majority of the defendants (80%) plead guilty to the crimes fabricated by the police as they were certain that their chances of proving their innocence at the initial trial were slim. As a result, Covey

(2013) argues that policymakers should take on the issue of police misconduct more seriously by implementing reforms to significantly reduce the rate of wrongful convictions overall.

Another major form of official misconduct is prosecutorial misconduct. Types of prosecutorial misconduct include “withholding or delaying the release of exculpatory evidence, allowing witnesses they know or should know are not truthful to testify, relying on fraudulent forensic experts” and many others (Center for Prosecutor Integrity, 2013 p 3). According to the National Registry of Exonerations, prosecutorial misconduct is part of official misconduct, which was a contributing factor in 52% of wrongful conviction cases that were later exonerated. One of the primary causes of prosecutorial misconduct is that it is quite difficult for the justice system to place sanctions on their own member. A prosecutor is also a minister of justice who is usually the one to place charges against individuals charged with a crime. In addition, prosecutors also have a legal immunity, meaning they could not be sued by the exonerated for wrongful convictions (Feuer, 2017). This factor has been brought to attention by the Innocence Project and the exonerated, who later pursued a case to the US Supreme Court to remove the immunity the prosecutors have. However, the US Supreme Court has recently narrowed down the circumstances under which the wrongly convicted may sue the prosecutors. Specifically, the exonerated person may file a lawsuit against the prosecutor only if they can prove that “the courtroom errors in their own cases were not only part of a larger pattern of misconduct, but also that the prosecutors knew about the pattern and ignored it” (Feuer, 2017). This court decision can only be applicable to the exonerated who have experienced the circumstances mentioned above, but who also gather evidence to prove prosecutorial misconduct in the courtroom.

Speaking of reforms, to date only eleven states have implemented some form of oversight of official misconduct. Specifically, they have implemented commission boards that investigate every wrongful conviction case to examine the mistakes that were made and

by what official, and then implement reforms within their state to address the mistakes (Innocence Project, 2018 “Government Misconduct”). For instance, New York, in 2014, became the first state to “create a public commission designed to investigate complaints of misconduct by prosecutors and impose discipline upon prosecutors who violate the rules” (Gershman, 2014). Many judges of the New York Courts have found that one of the most common violations prosecutors tend to commit is “hiding favorable evidence that could prove a defendant’s innocence” which leads to wrongful convictions (Gershman, 2014). As a result, because the evidence is hidden and not mentioned in the court records, it becomes tough to prove that the defendant is innocent.

In addition to the reforms, the Department of Justice has published a document that acquaints the public with what constitutes police misconduct, how any individual can file a claim if he was ever a victim of police misconduct as well as how the claim, if filed, will be investigated and by what branch of law enforcement (Department of Justice, 2018). By making this document available for the public, suggests that the Department of Justice is addressing the issue of police misconduct and identifies that it exists to ensure the public and the claimant that it does not stand by the officers who have committed police misconduct. In other words, it counters the view that the “blue wall of silence” is extended to the Department of Justice.

Mistaken Witness Identification/ Witness Misidentification

According to the Innocence Project, mistaken witness identification, also known as witness misidentification, “is the greatest contributing factor to wrongful convictions proven by DNA testing, playing a role in more than 70% of convictions” (The Innocence Project, 2018). It should be noted that eyewitness identification can play an integral role in criminal cases, where most of the time, it is the only evidence presented against the defendant. As a result, if the eyewitness identification is inaccurate, then the perpetrator may avoid getting

convicted, and the innocent can run into the risk of spending time in prison for the crime he did not commit. Specifically, cases involving sex crimes, most of the time include the victim who is the only witness to the crime. In such instances, the victim's testimony that the crime has actually occurred and was committed by the defendant is enough to convict if the story is considered to be reliable.

However, according to the National Registry of Exonerations database, there have been cases in which the victim/witness either misidentified the perpetrator or purposely lied in court, implicating an innocent defendant. In addition, eyewitness misidentification occurs often when the witness or the victim is a child. In fact, there have been cases where the child was either coached to identify the defendant as the perpetrator or simply invented the story of the incident, which was enough to wrongly convict (The National Registry of Exonerations, 2018).

Empirical evidence for the need of reforms to prevent witness misidentification which often leads to wrongful conviction has been collected by the DOJ as early as 1999 and referred by Thompson (2009) when examining judicial blindness to eyewitness misidentification. Thompson notes that even if various law enforcement agencies, in addition, the DOJ, have gathered data on the need for reforms to prevent witness misidentification, few states have passed legislation to do so. In addition, "the vast majority of the thousands of independent law enforcement agencies across the country have made few if any, changes to their status quo" (p. 640).

To justify the implementation of reforms, and the passage of new reforms in the states that haven't done so yet, Thompson cites cases where the defendants challenged eyewitness identifications. She found that the factors that increase the risk of misidentification included that the witness may be unreliable due to alcohol or drug abuse,

and that police may influence the witness to pick a person rather than notifying the witness that the perpetrator may not be in the lineup (p. 643-644). These two factors might increase the rate of wrongful convictions due to witness misidentification noted above. Due to such findings, Thompson recommends for states to pass reforms that will safeguard people in the lineup from being wrongly chosen and as a result convicted.

Recently there have been reforms passed in Florida and New York State to prevent witness misidentification and potentially reduce the rate of wrongful convictions due to this contributing factor. Specifically, New York State passed an FY18 budget in 2017 which includes many reforms to safeguard the innocent from being wrongfully convicted, including due to witness misidentification. Among the reforms, New York state now requires the police to have a “blind administrator” who will be unaware who is the suspect in the line-up and which will prevent him from giving cues to the witness or victim during a lineup (The Innocence Project, 2017). Meanwhile, in Florida, the state passed Senate Bill 312 and House Bill 643, which were signed by the governor to prevent witness misidentification followed by wrongful convictions. Specifically, the bills now require that during lineup the police have to utilize blinded or double-blinded administration. Double-blinded means that the officer is unaware of who is the suspect in the lineup. Both states passed these bills after the Innocence Project provided worrying data on the significant impact witness misidentification has on the rate increase of wrongful convictions (The Innocence Project, 2017, April 28). Besides New York and Florida, other states, such as Arkansas, Iowa, Kansas Missouri and Nebraska, have passed reforms to improve eyewitness identification and prevent wrongful convictions (Midwest Innocence Project, 2018).

False or Misleading Forensic Evidence

False or misleading forensic evidence was a contributing factor in 24% of wrongful conviction cases later exonerated, making it the fourth most common contributing factor (The

National Registry of Exonerations, 2018). According to the Bluhm Legal Clinics Center on Wrongful Convictions, false or misleading forensic evidence is when “a forensic analyst or other forensic expert presented evidence that was either (1) based on unreliable or unproven methods, (2) expressed with exaggerated and misleading confidence, or (3) fraudulent” (2018). The public and the justice system tend to consider forensic evidence to be the most accurate and strong evidence that will uncover the “truth” – whether or not the defendant is, in fact, guilty of a crime. This phenomenon is known as the “*CSI* Effect” which is partially caused by media. Specifically, Ghoshray (2006) argues that the *CSI* television series has “an impact on the criminal justice system by developing a faulty expectation of forensic evidence required for convicting a defendant” (p. 354). As a result, because jurors are now more fascinated with the forensic evidence and the expert's testimony, it all comes down to how far the presented evidence will satisfy the jury in granting a guilty verdict or an acquittal (p. 533).

Through the form of *CSI* shows, the media has distorted the jury’s perceptions of forensic evidence and expert testimony, but when it comes to a jury’s verdict, here is where the scholars diverge. Ghoshray concludes that the *CSI*-Effect does not have a significant impact; rather it allows the jurors to remain objective and look at the forensic evidence in more detail. However, Godsey and Alou (2010) find that there is a “reverse *CSI*-Effect” where the jurors are so fascinated with the forensic evidence, that it leads them to convict, sometimes wrongly (p. 483). The scholars agree that one thing is certain: there is some kind of *CSI*-Effect impacting the criminal justice system. The media has also been discussing the impact of the *CSI* Effect and how over the years its influence has only grown, which questions the accuracy and reliability of the criminal justice system as a whole (p. 483).

The reliability of forensic evidence has also been questioned by the Innocence Project. When they reviewed DNA evidence in nearly 200 cases, they found that in 63% of

these cases, the forensic experts provided invalid evidence. Forensic evidence is often analyzed by private forensic labs that police precincts work with and send gathered evidence to for analysis (Giannelli, 2006, p. 230). Giannelli (2006) argues that this is one of the reasons why forensic evidence is unreliable in the courtroom and refers to such misleading forensic evidence as “junk science.” He further argues that reforms have to be implemented to regulate the crime labs. Forensic labs nationwide, including the FBI’s, have had a history where a lab analyst has either misused the evidence or simply committed fraud. The media closely followed the reports of lab’s lack of reliability which pressed states like New York, Texas, and Oklahoma to implement strict guidelines to accredit a forensic lab and have a separate agency to review forensic labs’ work over time (p. 170).

In this case, the forensic analysts, experts, or the crime lab are often at the center for media when discussing wrongful conviction cases caused by false or misleading forensic evidence. The form of evidence that is considered to be the most accurate now has its accuracy and reliability called into question (Giannelli, 2006, p. 234). Due to lack of oversight, forensic labs utilize techniques to test the evidence that are unproven, but this is completely overlooked, which leads to wrongful convictions (Giannelli, 2006, p. 235). In this case, the media’s focus on mistakes made by forensic experts has led to the states’ implementing guidelines to have better control and oversight of forensic labs and forensic expert testimony.

False Confession

False Confessions have also been one of the contributing factors of wrongful convictions. According to the Innocence Project, “1 out of 4 people (25%) wrongfully convicted made a false confession or incriminating statement” (“False Confessions or Admissions”, 2018). False confessions are “an admission to a criminal act - usually accompanied by a narrative of how and why the crime occurred - that the confessor did not

commit” (Kassin et al., 2010, p. 3) The Innocence Project has found that because false confessions are self-incriminating statements, it is one of the most difficult contributing factors to prove to have taken place in order to win an exoneration for the wrongly convicted, since the initial statement of guilt, and later a statement of innocence, tarnishes each other’s value, and the court remains in doubt about which of the statements is true. According to Cornell Law School, the primary issue with false confessions is that in the criminal court, the defense can motion for inadmissibility of the defendant’s confession due to many factors, but it will not specify that it was false or true (Cornell University, 2018).

Another issue with false confessions is now such statements might be obtained from the suspect by the police. According to Leo and Davis (2010), law enforcement can obtain a coerced confession from the suspect through physical or psychological pressure and abuse. This problem, including instances of physical abuse of the defendant perpetrated by the police in pursuit of a confession, has been frequently discussed by the media, and it has led to confessions by defendants, as in the case of the Central Park Five (Nesterak, 2016). This case has certainly shed light on the need to reform law enforcement and establish laws that will protect the rights of the defendants during interrogation such as the 5th Amendment of the US Constitution and the Miranda Warning.

Psychological coercion was also used against child or adolescent suspects. Such was the case of Jeffrey Deskovic, who was wrongly convicted of rape and murder in New York in 1990, sentenced to 15 years to life in prison, and exonerated in 2006 (Innocence Project, 2014). Deskovic, at the age of 16, was interrogated for six hours without the presence of an attorney or a parent, was provided no food and ultimately confessed (Innocence Project, 2014). Further, according to other studies, there are three different types of coercion for obtaining false confessions: voluntary, compliant, and persuaded. Specifically, a voluntary false confession requires little or no pressure from the police, and the defendant’s confession

is either due to self-imposed psychological pressures, like self-punishment or to mental impairment (Kassin et al., 2010, 14). However, when it comes to adolescents, even slight pressure from the police may be enough to get a confession due to age discrepancies. The compliant false confession is obtained when the defendant has had enough and wants to end the interrogation, usually due to the psychological or physical abuse he endures by the police to obtain a confession (Cornell University, 2018). The case of Central Park Five is illustrative of this type of false confession. The police interrogated the defendants for hours and told them that once they confessed, the interrogation would be over, and they could go home. The defendants falsely confessed to the rape and violent assault of the Central Park jogger (Salaam, 2012).

Lastly, the persuaded false confession is when the defendant confesses that he committed the crime due to false-memory of having done so when actually he did not. Such confessions are achieved when the police repeat the storyline of the incident and build the memory. Once having such a false-memory, the defendant is certain that he was the perpetrator and confesses to the crime (Cornell University, 2018).

False confessions most often occur because law enforcement agents are either certain that the innocent is actually guilty, and as a result may coerce the confession, or shape the defendant's statement into a confession by reordering the defendant's statements (Leo & Drizin, 2010). Further, because law enforcement agents are considered to be the most trusted figures in the justice system, it was quite difficult in the past to prove that the confession was coerced if it did not include any physical abuse, but was instead psychological (Cornell University, 2018). In other words, false confession can be one of the contributing factors to wrongful convictions that are hidden within the case details; it is tough to reveal and even tougher to prove when appealing a conviction case.

The above mentioned coerced tactics that police use to extract a confession are known as the Reid technique (Nesterak, 2016). It was developed by a polygraph expert, John Reid, and it has been questioned for its legitimacy since it put the police at risk of obtaining false confessions (Nesterak, 2016). According to Saul Kassin, an expert in false confessions, the Reid technique is a three-phase process: (1) the police follow cues in the suspect's movement and behavior, to identify whether the person is lying; (2) once the police get suspicious of the suspect, they take him to an interrogation room that is "small, windowless, barely furnished, and soundproof, so that the suspect can't hear voices and phones ringing"; (3) during the interrogation, the investigator can lie about the evidence to have the suspect be certain that the police definitely have something on him; and (5) lastly the investigator sympathizes with the suspect, asserting that there must have been a valid reason why he committed the crime and claiming that if he confesses, he can go home and the interrogation will be over (Nesterak, 2016). All of these tactics have been utilized when extracting confessions from the Central Park Five, and Jeffrey Deskovic. However, the technique has not been abolished since it continues to be an effective technique when it comes to extracting a confession from actual offenders (Nesterak, 2016).

To lower the rate of wrongful convictions due to false confessions, numerous states including North Carolina, Massachusetts, and Illinois have passed reforms that now require law enforcement to save the footage of interrogations which protects not only the innocent persons suspected of a crime, but also the police from being falsely accused of coercion (False Confessions or Admissions, 2018). In 2003, Illinois was the first state to pass a law that requires the police to record interrogations in all felony cases (Innocence Project of Florida, 2018). This idea was later expanded and currently, around two dozen states have a law that requires law enforcement to electronically record the interrogations in the types of crimes required by the state (Stepansky, 2017).

However, it should be noted that the above-mentioned reforms have been initiated only recently, while wrongful conviction cases due to the contributing factors go as far back as 1989. In addition, the majority of the remaining states have not just given scant attention to the need to prevent contributing factors; the issue of wrongful convictions overall has not been a priority. For instance, almost two dozen states don't even have statutes to compensate those who have been wrongfully convicted and later exonerated (Cooper & Elliott, 2018). Compensating the wrongly convicted is a significant step since it is yet another form of acknowledging that the state's justice system has made the mistake of sentencing an innocent to prison, but also that the person released from prison is cleared of a crime he did not commit.

The media plays an essential role in how the public comes to be aware of the problem of wrongful convictions, and in how the public come to understand the problem and its solutions. The media's framing of the problem strongly influences whether future reform efforts actually fix the factors most responsible for the wrongful conviction of American citizens. Therefore, the media's framing of contributing factors in wrongful conviction cases arguably, ought to be proportionate to the number of relevant cases nationwide so that the public and state officials will make necessary reforms to address the issue. It is important to note how slowly reform occurs; the majority of states still have not enforced the law requiring police to record interrogations.

States are failing to address the issue of wrongful convictions caused by false confessions. Some states may either argue that they do not have a record of wrongful convictions caused by false confessions, or simply not record wrongful convictions at all. Therefore, it is necessary to examine not just media framing the issue, but also how the states record wrongful conviction cases and its contributing factors.

Media Coverage of Criminal Justice

Gene Policinski (2014) discusses how the idea of publishing news and facts about ongoing criminal or civil cases became one of the most popular topics in the media. Specifically, in 1735, one of the reporters from the *New York Weekly Journal*, Peter Zenger, was charged with libel and accused by the governor of New York for publishing an article critiquing his actions. However, the jury took the defendant's side and he was let free, after which he wrote another article about his case and how the jury found him innocent. This was the first article ever recorded to talk about the details of a case. After this incident, the media took a different course and heavily emphasized facts and stories about criminal and civil cases, which only entertained the public but proved very popular and profitable.

It should be noted that one among the discussed cases, was that of Sam Sheppard who was convicted of murdering his wife in 1954. During the trial, the media was closely focusing on the case and depicting that Sheppard, a physician who is known in the community, was actually a heinous offender deserving a harsh punishment for the murder of his wife. A federal judge later criticized the media, saying, "If ever there was a trial by newspaper, this is a perfect example. And the most insidious example was the *Cleveland Press* who took upon itself the role of accuser, judge, and jury" (Policinski, 2014, p. 1010). Specifically, when the newspaper headlines demanded that Sheppard be arrested, the police did so later the same day. During the whole investigation and sentencing, the media published inculpatory information that was not based on facts. However, the jury, who even notified the court that they have been "contaminated" with the media's discussions, was not dismissed from the case. Overall, there was a concentrated presence of the media in Sheppard's case that this fact, alone led to a violation of due process for Sheppard, one so bad that even the U.S. Supreme Court referenced the trial's "carnival atmosphere." However, finally, after thirty years, it was discovered that Sheppard was wrongly convicted and a new trial was held

during which “a man stood trial for his life” (Policinski, 2014, 1011) - in this case, meaning, not just to be exonerated, which he was, but also to get back his reputation and maybe even return to his practice.

Over time, the media has gained greater influence within the criminal justice system (Greer, 1994, p.70). In other words, when it comes to criminal cases, if the media casts doubt on the accuracy of a conviction, it can push law enforcement to reopen the case and reexamine the evidence to be certain that the defendant is in fact guilty. Along with Greer (1994), Yaroshefsky (2004) also found that once exonerations were highly discussed by the media, only then did the justice system start to look further into potential wrongful conviction cases and criminal justice reforms (p. 278). For instance, season 1 of the ‘Serial’ podcast, which aired in 2014, has influenced the justice system in Maryland to grant a new trial for Adnan Syed, convicted for murder in 1999 and sentenced to life imprisonment (Stack, 2018). Every episode uncovers more about how Syed couldn’t have been the perpetrator, leaving the audience further to question the legitimacy of the justice system and its procedures for handling a case. The judge granted a new trial based on the fact that Syed’s defense counsel was ineffective. At the new trial, charges against Syed were vacated and he was released. This is a classic example how the media has influenced the justice system to review how it handled and closed Syed’s case, and to reopen it to make up for its own mistakes.

However, just as media can find an innocent behind bars and seek his freedom, it can also claim that an innocent is guilty and have him placed behind bars. Of course, it is expected that media will have valid reasons to claim that an imprisoned person may actually be innocent, but not all the time. In fact, Sheppard’s case was the opposite; the media claimed that the defendant standing trial or of interest to the police was guilty of the crime being investigated, which subsequently led to his wrongful conviction. These examples all show that the media has a powerful influence on the public and among officials. In addition, it all

comes down to the media catching up to the public's interest and reporting stories to gain popularity in the marketplace.

The Innocence Project has been established to help the wrongly convicted prove their innocence through DNA, to set them free, and to reintegrate into society. Once the media learned about the Innocence Project and exoneration cases, it notified the public about the mistakes made by the criminal justice system (Preventing wrongful convictions, 2008). As the issue of wrongful convictions became increasingly interesting to the public, the media "became instrumental in the exoneration of an innocent person" (Warden, 2002, p. 803). However, some researchers note that upon reflection, it is obvious that the media can also contribute to the problem by increasing the rate of wrongful convictions. Specifically, Owens & Griffiths (2011) found that when it comes to sentencing a wrongly convicted person, the media supports the state and helps to brand the innocent one as a felon, rapist, or murderer. Yet, when the wrongly convicted is let free, the media works as a positive tool for the exonerated when he files for compensation for wrongful conviction. As stated above, the media influences society, and "produce[s] indirect pressure on state legislatures" (p.1317) because the media can influence the society (motivational frame) to sympathize with almost anyone exonerated and seek a reward for him. This is what Loseke describes as the "motivational frame" which makes people care about what issue targeted as a social problem.

To improve response from the society to the "social problem" of wrongful convictions, the media must first project accurate information so that the public's perceptions of the issue of wrongful convictions are as clear as possible. This phenomenon was studied by Clow, et al. (2011), who found that the exonerated have a positive opinion about the media. The research found that most of the newly exonerated felt a positive, welcoming attitude in the society, and they believed that it was actually due to the media, which was

highly involved in depicting how they were granted innocence, especially when the state officials gave public apologies to the exonerated for committing such erroneous mistake.

The media has a significant ability to turn almost anyone's life upside down, depending on how the media discuss the person. For example, Vartkessian and Tyler (2011) have proposed a phenomenon of "social exoneration" which is highly influenced by the media. Specifically, in their study, it was found that "the media can play [a role] in helping to support an exoneree's transition into free society" (p.1471) by letting the public know that he needs support to transition. In other words, media can be influential enough to motivate the public to demand from the state officials help the newly released build a successful life after exoneration.

Further, the other side of the media and public interaction is the society's general perceptions about injustice and victims which the media are familiar with and use to their advantage. For instance, Hugu & Glynn (2015), in examining public perceptions to news involving victims of crime, have found that if the content of the media provided a negative overview of the victim, third-party perceptions decreased and the public would less likely follow the story or provide any help. Meanwhile, if the media content was positively discussing the victim and sympathizing him/her, the third parties would closely follow the story and even try to offer their assistance. This is important because when it comes to media coverage of wrongly convicted people, most of the time, the media will sympathize with the exonerated and depict the police, court, and corrections in a negative way, by questioning their professionalism (Yaroshefsky, 2004, p. 280). Therefore, those who have something to offer, such as compensation, employment opportunities, a scholarship for education and so on will likely offer it to the exonerated because then the media will highlight the contributions made and portray these people as good Samaritans as well as grant them their moment of shine. In this case, the media's coverage of the celebrated case has a significant impact not

just on the person being the main character of the article, but also upon the third parties, including both the general public and the individuals or organizations that can provide further assistance.

Defining Media Framing

When the media influences the public and the officials to have a certain perspective on a discussed issue is known as “media framing.” Studying framing is useful approach for “getting beneath the surface of news coverage and exposing the hidden assumptions” (Reese et al, 2001, 100). One of the earliest claims of the media’s influence in the society was discussed by McCombs, Shaw & Weaver (1997) who have argued that “the media not only tells what to think about but also how to think about it” (p.17). In other words, media can indirectly influence the public as well as the government to think about a problem in a specific way, to propose solutions and to care about an issue being discussed and given attention by the media.

According to Loseke, there are three frames used in the media to create an overarching “social problem” frame around the discussed issue (Loseke, 2011). First, the diagnostic frame is usually the early frame used to introduce the topic as a “social problem.” It also includes introducing important contributing factors that have caused or created the issue and that make it worse, as well as specific parties who are to blame for the issue. Second, the motivational frame follows the diagnostic frame and it attempts to persuade the audience to care about the issue. Last comes the prognostic frame, which the media uses to discuss the solutions that have either been proposed, utilized, or desired to resolve the issue and aid the victims.

When it comes to the issue of wrongful convictions, it is significant to examine how the three frames were utilized when discussing the issue by the media and its trends from past to present. Consider the following example. For visualization, see figure 3 from Appendix.

The headline from a *New York Times* article that reads “*Free After 17 Years for a Rape That He Did Not Commit*” by Novovitch (2004) is motivational since it provides sympathetic information about the exonerated; this article discusses, particularly, that he spent 17 years in prison, but was innocent all this time. Further, in the first paragraph, the first sentence is motivational, as it describes how many people have come to hear the trial where the convicted, Brandon Moon was exonerated; “Mr. Moon and his parents were in the packed courtroom to hear the El Paso district attorney Jaime Esparza, apologize for the wrongful conviction, for himself and for the State of Texas”. The same sentence is also diagnostic as it specifies the parties that are to blame for wrongfully convicting Brandon Moon, particularly, the district attorney and the state of Texas. Lastly, the third sentence is prognostic as it specifies parties that have helped the wrongly convicted get exonerated, particularly one of the founders of the Innocence Project Barry Scheck; “with them were Barry Scheck, a lawyer from New York whose 12-year-old Innocence Project has accounted for more than half of those exonerated, and another lawyer from Mr. Scheck's office, Nina Morrison”. This is one example to illustrate how framing was used when discussing wrongful conviction cases in the New York Times dataset.

A case analysis by Warden (2002) is one of the most significant studies examining media’s overview of wrongful conviction cases. While examining four cases, Warden was able to identify that, historically, media already had an influence in case processing and could partially contribute to the sentencing as well. For instance, the earliest case Warden analyzes was from 1932 - a kidnapping case where the media, before any factual evidence, blamed the suspect in the kidnapping of the victim, which influenced law enforcement to fabricate evidence to convict and execute the suspect. Even if Warden’s case analysis consists of a small sample, it shows that as far back as 1930’s, media already had a strong influence in the public and was able to convince even law enforcement to violate the defendant’s due process

and commit a crime. As stated above, the media can gain influence through media framing; in the 1932 case, the media had framed the suspect to have committed the crime so accurately, that all the parties - the public, law enforcement, even the justice system - believed it.

Media frames a different aspect of a social problem such as wrongful conviction over time. Warden (2002) states that over time, once it was no longer interesting for the public to read case briefs of wrongful convictions, certain media outlets changed their framing and began discussing the justice system and violations that have come from their part such as prosecutorial misconduct (p. 806). Such publications raised the public's overall distrust in the justice system.

Limitations of Prior Studies

The above-mentioned studies certainly provide a solid overview of the media framing of contributing factors of wrongful convictions. However, the studies do not reveal the proportionality of media coverage of contributing factors of wrongful convictions relative to official data from the National Registry of Exonerations. Besides case analysis, there has been no sufficient information on how the issue of wrongful conviction has been framed over a period of time and whether the framing has shifted. In addition, no study has made a direct link to Loseke's social problem frame in terms of media framing and the key elements it includes, which leads to lack of information about the media shifting public perceptions on wrongful convictions and the surrounding figures, including the justice system and officials.

Research Question and Hypothesis

Based on the prior research cited above, the following research question will be examined: Is media framing of contributing factors of wrongful convictions proportionate to the rate of contributing factors recorded in the official data on exoneration cases? H₁: media framing of contributing factors of wrongful convictions is disproportionate to the rate of contributing factors recorded in exoneration cases.

Research Methodology

Definition of Variables

The dependent variable is the framing of wrongful conviction study that examines the content of newspaper articles for the presence of media framing of contributing factors of wrongful convictions and its proportionality to the official data. Since the goal of this study is to identify and map trends in the media's framing of wrongful convictions, it is not a study with proposed solutions and recommendations. Therefore, it does not have predictor variables, since this study is not measuring the impact of one on another.

Sampling Method and Rationale

Definition of Population

This study focuses on *New York Times* articles that discuss the wrongly convicted and their case details. Further, this study will focus on the exonerated whose cases were recorded in the National Registry of Exonerations (N=2170), which contains all exoneration cases in the United States from 1989 until the present day. This registry "collects, analyzes and disseminates information about all known exonerations of innocent criminal defendants" (The National Registry of Exonerations, n.d.) and provides the information for the public use.

Data Collection Technique and Procedures

For this study, sampling will be based on Grounded Theory which finds patterns in a collected data (Grounded Theory, 2017). The study will focus on cases exonerated from 1989 to present day. The data will be gathered from the *New York Times* newspaper. The study used a purposive sampling strategy, searching the *New York Times* and ProQuest online databases for articles, using the following search terms as inclusion criteria: "wrongful conviction", "wrongly convicted," "wrongfully convicted," or "exonerated." The initial search resulted in 4,343 articles. The results were then pre-qualified using the following protocol: the article was selected for analysis if the names of the exonerated in the article were listed in the National Registry of Exonerations, and if the article mentioned at least one

of the five contributing factors. The goal was to collect articles about 50 random exonerees. Data collection ended once the dataset had reached 50 exonerees, which yielded 72 *New York Times* articles for analysis.

In order to identify media framing in the chosen articles, as well as collect and organize data for this study, Nvivo Pro 11 Software was utilized. This software allows the researcher to code any content in the article that reflects one of the three types of frames identified by Loseke, as well as code the content for the presence of the contributing factors. In the present study, the researcher was the sole coder of the data therefore, it was not necessary to conduct inter-rater reliability since the data was collected based on the definitions of each frame and the researcher's determination that a quote reflects at least one of the frames.

Research Design

This study utilizes a qualitative research design using content analysis. There is currently a lack of research on the topic of media framing of contributing factors of wrongful convictions using Loseke's framework; (2) using a method of textual investigation, this study collects nonnumerical textual data to examine how media frames the topic of wrongful convictions (Babbie and Maxfield 2015, p. 39) since it allows us to examine whether media proportionally frames the contributing factors of wrongful convictions compared to official data, as well as discover "greater richness of" content that points on how media shifts public perceptions (p. 39); By using content analysis, this study can "organize and elicit meaning from the data collected and to draw realistic conclusions from it" (Bengtsson, 2016, p. 8).

Data Analysis

The study involves content analysis which is "one of the most commonly used research methodologies by scholars dealing with media" (Berger, 2014, 231). The study examines *New York Times* articles on wrongful convictions using Loseke's "Social Problem

Frame” and identifies each one of the above-mentioned frames in every article chosen for this study. Loseke’s Social Constructionist framework (2011) contains three frames. The frames are revealed through a close reading of the articles and interpreting the meaning of the text. The three are (1) the diagnostic frame which consists of claims made to attribute the cause or the blame for a social problem, (2) the motivational frame which consists of claims made to persuade the audience to care about the problem and think about solutions, and (3) the prognostic frame which consists of claims made about solutions to the problem as it was diagnosed (p. 59). All three frames influence the public to have certain perceptions of the causes and consequences of wrongful convictions.

To review, the list of contributing factors of wrongful convictions, according to the National Registry of Exonerations is (1) mistaken witness identification, (2) false confession, (3) perjury/false accusation, (4) false or misleading forensic evidence, and (5) official misconduct. Each of these factors can be used by the media to diagnostically, motivationally, and prognostically frame coverage of wrongful convictions. To satisfy the purpose of the present study, content analysis will be used to map the prevalence of diagnostic, motivational and prognostic frames as well as the prevalence of each contributing factor in the sampled media coverage.

Methodological Limitations

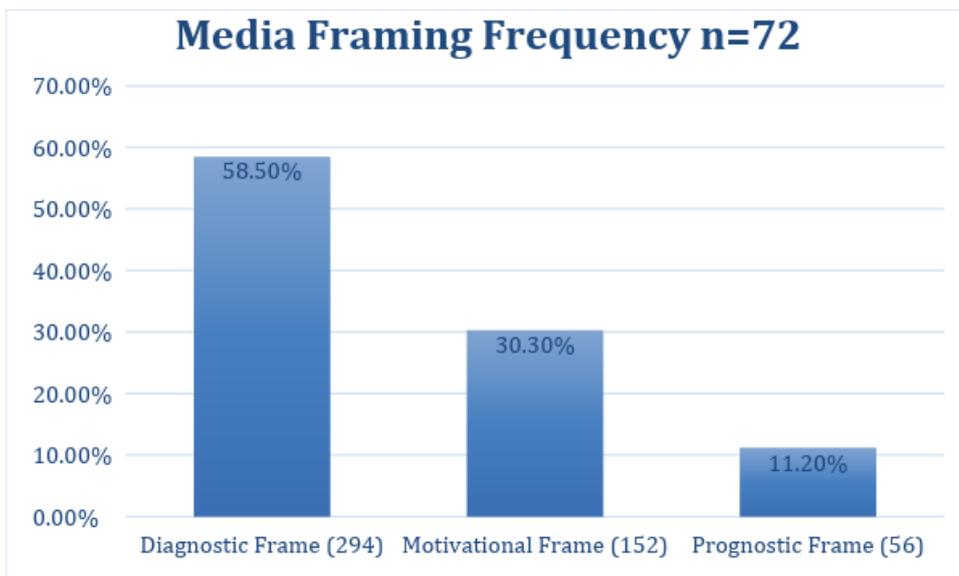
The initial search yielded 4,343 articles, out of which 72 fell under the scope of the study. For a better and more accurate comparison of media framing of contributing factors and the official data, it is recommended to have a bigger sample, ideally at least one article per each exonerated (N=2170). That was not possible here. Nevertheless, the present study can still make a comparison between media framing and official data on contributing factors to identify whether media framing is proportionate to that of official data.

Findings

1. What is the most common frame utilized?

Figure 1 below shows the frequency of media frames utilized by the *New York Times*. For this study, NVivo 11 Pro software was used to identify frames used in 72 *New York Times* articles that discuss at least one of the five contributing factors of wrongful convictions. Majority of the articles tend to discuss the issue of wrongful convictions and the contributing factors using a diagnostic frame (58.5%). In other words, the *New York Times* articles are more likely to introduce the issue and its causes for the public relative to motivational or prognostic frames. Motivational frames were the second most common (30.3%). According to Loseke, the motivational frame is used to persuade the audience to care about the problem (Loseke, 2011, p. 94). The motivational frame is present slightly less than the diagnostic framing, which shows that when discussing contributing factors of wrongful convictions, the media is more likely to introduce the problem and provide details of the case. These include the obstacles, challenges, and hardships that the victim of the situation, in this case, the wrongly convicted, has faced before and after being exonerated. Both of these frames are utilized not just to introduce the topic of wrongful convictions as a social problem, but also to provide case details that will increase public concern. Lastly, the least common frame used in the articles when discussing contributing factors of wrongful convictions is a prognostic frame (11.2%). The prognostic frame is used when discussing solutions that were proposed, utilized or recommended, and when it comes to the topic of contributing factors of wrongful convictions, it can be concluded that not much has been proposed, utilized or recommended, or that it has been rarely done to address the issue of wrongful convictions.

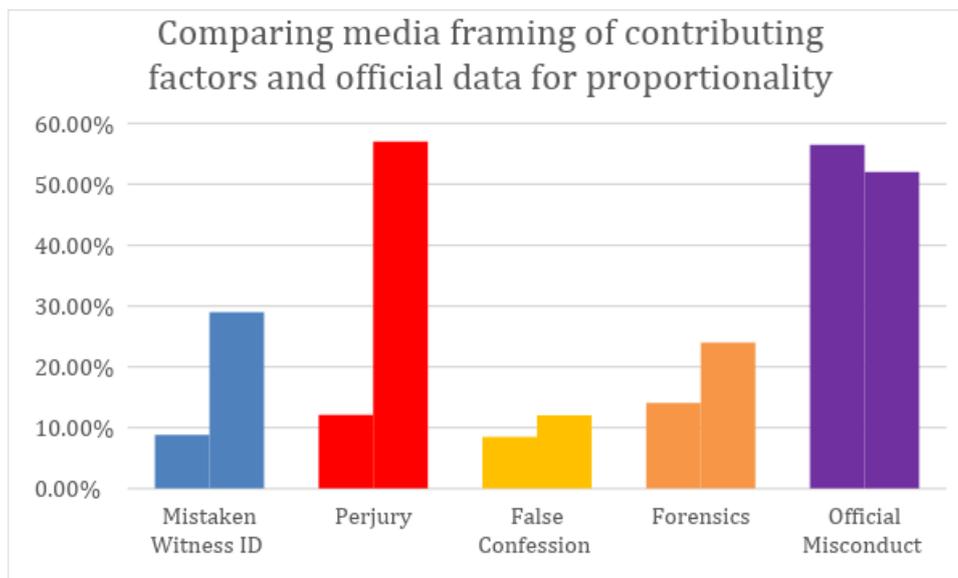
Figure 1



2. What contributing factor was most discussed?

As shown in Figure 2 below, official misconduct is the most common contributing factor discussed in the *New York Times* articles chosen for this study mentioned in 56.5% of the sample. False or Misleading Forensic Evidence was the second most discussed contributing factor (14.10%). Further, Perjury and False Accusations (PFA) are the third most discussed contributing factor (12.10%) and lastly, Mistaken Witness Identification (8.80%) and False Confession (8.50%) are the least most commonly discussed contributing factors of wrongful convictions.

Figure 2



2(a) Is the most commonly discussed contributing factor accurate to official data?

In comparison to the data on media framing of contributing factors of wrongful convictions to the official data retrieved from the National Registry of Exonerations. Although the most common contributing factor in wrongful conviction cases is perjury and false accusations, it is only the third most commonly discussed contributing factor in the *New York Times*. In other words, the public does not learn from the *New York Times* that perjury and false accusations account for 57% of wrongful conviction cases, which is alarming. Meanwhile, official misconduct, the top common contributing factor discussed in the *New York Times* is at the second place (52%), after perjury and false accusations. In terms of other contributing factors, at third place is Mistaken Witness Identification, yet it is the second to last to be discussed by the *New York Times*. Meanwhile False or Misleading Forensic Evidence which was a contributing factor in 24% of wrongful conviction cases is highlighted in the news more often than perjury and false accusations. Lastly, false confession is the least discussed contributing factor and in terms of official data is the least common contributing factor in wrongful conviction cases. This shows that *New York Times* articles

disproportionally reflects contributing factors of wrongful convictions, except for the last contributing factor, false confessions.

3. How is the most common contributing factor framed?

Besides learning how often *New York Times* highlights contributing factors and its proportionality with the official data, it is just as important to identify how it frames the contributing factors. The chart below shows that official misconduct, the topmost commonly highlighted contributing factor, is most significantly framed diagnostically compared to other contributing factors. In other words, the *New York Times* more likely to identify that official misconduct causes wrongful conviction and also mentions specific parties who are to blame for the wrongful convictions.

When coding *New York Times* articles discussing official misconduct, the majority of the articles mentioned specific parties to be blamed for causing wrongful conviction, and were, therefore, coded separately under the parties' names. For example, some of the articles mentioned: Detective Scarcella, District Attorney Hynes, and District Attorney Anderson. These three parties were often blamed for contributing to wrongful convictions, and committing either the prosecutorial or police misconduct. Among the extreme examples of official misconduct were discussed in a case against Medell Banks and two co-defendants who were charged with infant homicide in Alabama in 1999. The interesting factor is that the baby never existed, but because the police believed they were certain that one of the defendants was pregnant at the time of her first arrest for an unrelated offense, and the baby is no longer in the womb, the Alabama police rushed to judgment and arrested the three defendants in the crime, interrogated them for hours until they falsely confessed to the murder of the imaginary baby (Herbert, 2002, p. 23). Another extreme example was the case of Juan Rivera who was wrongly convicted of murder and rape in Illinois, 1992. After series of motions and pleas for a new trial based on new evidence, the defense was able to prove

that Rivera was innocent since the DNA results showed that he was not the perpetrator. However, it was not enough for the Illinois District Attorney Mermel, who states, “We don’t quaver because someone holds three letters: DNA” (Andrew, 2011). This is yet another example how the prosecutors don’t take responsibility for wrongly convicting an innocent man and resisting to admit it.

Following official misconduct, perjury and the false accusation was the next most diagnostically highlighted contributing factor. Based on the quotes coded from the articles, under the diagnostic frame, perjury and false accusation were committed either by witnesses that were mistaken that the defendant was the one they have seen committing the crime, or intentionally perjured in the court either because they were promised a reward for the false accusation, or as a deal with the police, in order not to face any pending criminal charges held against them at the time. The remaining three contributing factors are False or Misleading Forensic Evidence, Mistaken Witness Identification, and False Confession. The diagnostic framing of these three contributing factors, in terms of frequency, is relatively close. In other words, the data contained articles that less frequently discussed the three contributing factors as significant causes of wrongful convictions as well as rarely mentioned specific parties to blame. Among the issues discussed were the tests that forensic experts relied on too blindly on which ended up being controversial, witness testimonies that changed over the course of the trial due to (1) series of confusing questioning by the police investigators, and (2) interrogations that either physically or psychologically pressured the defendants to falsely confess to committing the crime.

The motivational frame was also most commonly used compared to other frames when discussing official misconduct, in this case, how often it occurs nationwide, how tough it was for the wrongly convicted to prove that they were innocent but imprisoned due to official misconduct and how tough it is to claim compensation or monetary settlement for

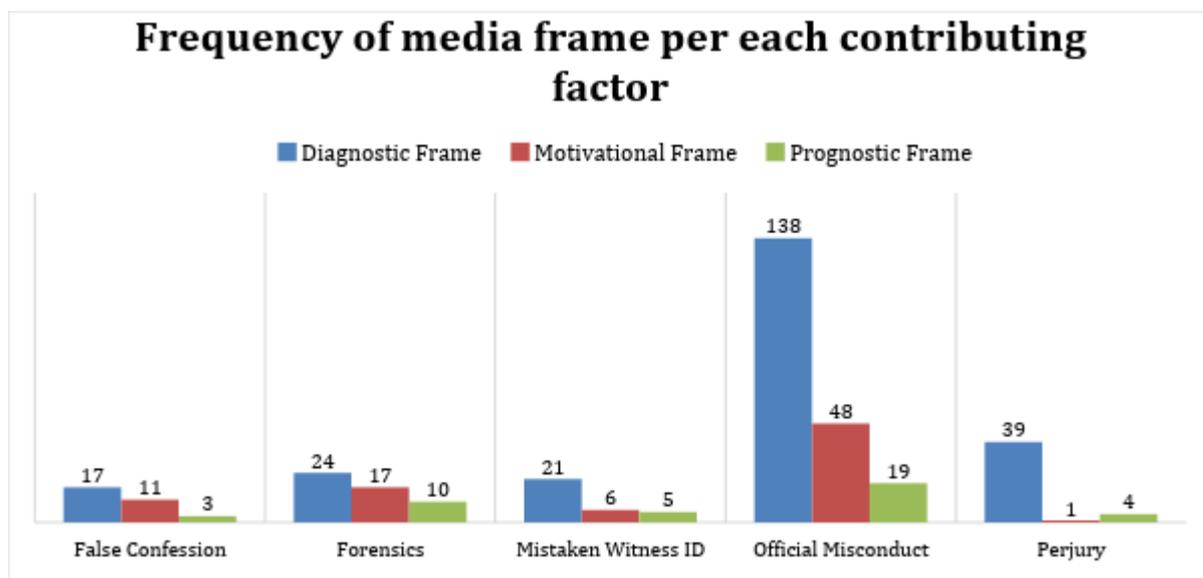
what the prosecutor or a police official has done. Following official misconduct, from most to least common, False or Misleading Forensic Evidence, False Confessions and Perjury and False Accusation were the next contributing factor motivationally framed. The articles included statistical information about the impact a controversial test or invalid forensic evidence has on wrongful convictions, data results on the likelihood individuals charged with crimes they did not commit of taking the plea bargain and therefore false confess. The last one, perjury and false accusations, stands apart from other contributing factors when motivationally framed, and out of all the articles, contained only one reference, a paragraph, discussing the types of cases where perjury and false accusations are more likely to occur, which according to the provided statistics, are rape cases.

Lastly, the prognostic frame was used when discussing official misconduct, which included policies, court decisions that allowed the defendants to be exonerated and claim their innocence, and in rare instances file for monetary compensation, claiming the settlement from the officials who have placed them in prison in the first place. After official misconduct, the next most commonly discussed contributing factors using prognostic frame are False or Misleading Forensic Evidence, Mistaken Eyewitness Identification, Perjury and False Accusations and False Confessions.

It should be noted that compared to the other frames, the prognostic frame was rarely used in the publication chosen for this study, and therefore reflects a smaller portion of the whole dataset. Nevertheless, with prognostic framing, the New York Times articles discussed proposals to increase the reliability of forensic evidence in the courtroom as well as the development of internal affairs within crime labs that can work as oversight over the accuracy of analyzing evidence from the crime scenes. In terms of Mistaken Eyewitness Identification, the articles also discussed proposed innovative methods of monitoring witness identification during lineups, including photo lineups as well as ways of recording witness questioning.

Similar proposals were recommended for perjury and false accusations, among them to have conversations with young individuals about falsely accusing their partner of sexual assault. Lastly, when it comes to false confessions, bills were proposed to allow the wrongly convicted who falsely confessed to have the right to sue the state for wrongful convictions as well as discussed policies for police to video record their interrogations as it will protect both the defendant from falsely confessing as well as the police from being falsely accused of official misconduct and illegally extracting a confession.

Figure 3

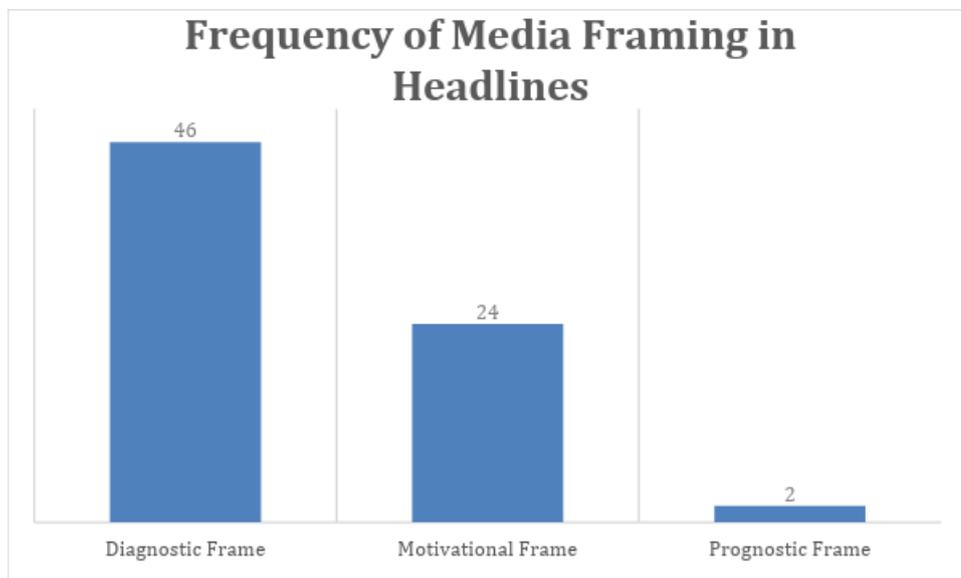


Headlines:

1. Which frame is most commonly used in headlines?

Based on the figure below, among the 72 articles coded for this study, 46 articles contained diagnostically frame headlines and is overall the most common frame. Next comes the motivational frame in which the headlines contain information that calls for sympathy among the readers, pointing at the injustices of wrongful convictions. Lastly, the prognostic frame is the least common frame used in only two headlines and included information about solutions that were proposed or utilized to address the issue of wrongful convictions caused by at least one of the contributing factors.

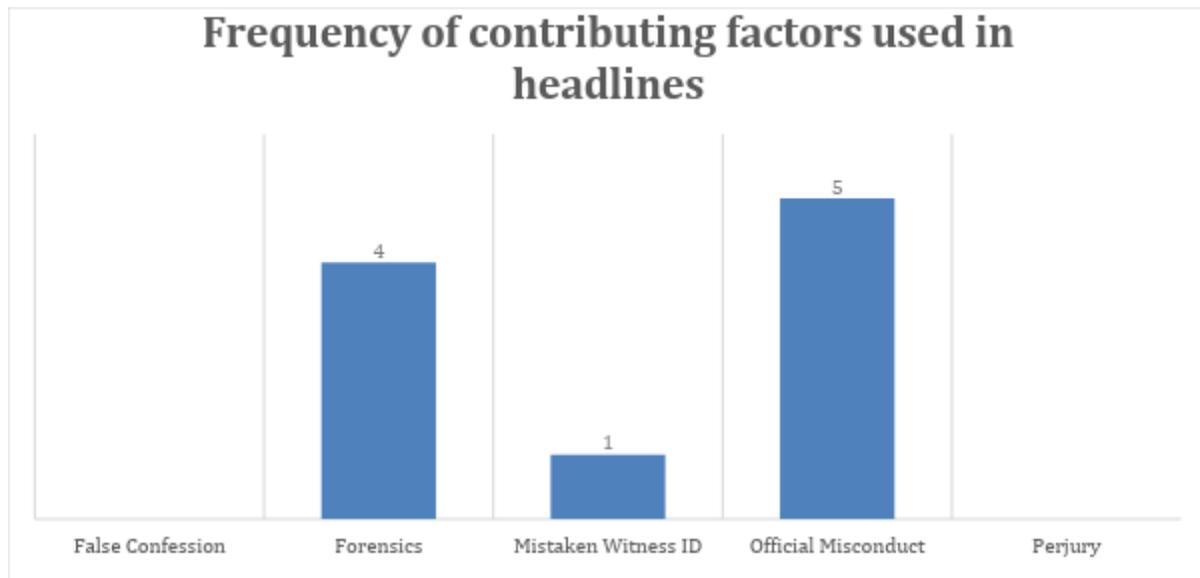
Figure 4



2. Which contributing factor most commonly used in the headlines?

Based on the figure below, official misconduct was the most common contributing factor used in headlines. These data are correlated with the data above, that Official Misconduct is the most common contributing factor discussed. False or Misleading Forensic Evidence follows next and the last contributing factor mentioned in the headlines was Mistaken Witness Identification. Interestingly, neither Perjury and False Accusations nor False Confessions were mentioned in the headlines and this also correlates with the above findings as these contributing factors tend to be less often discussed by the *New York Times*.

Figure 5



Discussion

Media certainly plays a role in wrongful conviction cases. Unfortunately, media framing contributing factors of wrongful convictions and the overall justice system might not always be accurate compared to official data. However, because media became instrumental in wrongful conviction cases, it now has to take note of its own influence in the public and therefore become more investigative (Preventing wrongful convictions, 2008). Otherwise, if media keeps being a too late-journalism, then it only records a yet another wrongful conviction case and that contributing factors that led to it, without trying to save innocent lives from being convicted.

Recommendations for Future Studies

When studying the media framing of contributing factors of wrongful convictions, here the following recommendations for future studies:

1. This study showed that media disproportionately highlights contributing factors of wrongful convictions by coding 72 articles from *New York Times*. However, for more

accurate results, it is recommended to increase the sample size. This will allow the study to reveal more precise results.

2. Since the present study examined articles from the *New York Times*, looking at one news outlet narrows down the scope for examination. Therefore, for future studies, it is recommended to conduct a nationwide analysis and collect articles from national newspapers from every state. A bigger sample can help gain a more accurate result in terms of public perceptions since the public learns from information received from more than one news outlet.
3. This study focused on five contributing factors, yet another potential contributing factor is inadequate legal defense. This sixth contributing factor was not used for this study since the National Registry of Exonerations does not collect statistical data on its impact on wrongful convictions. Therefore, it is recommended to examine how media frames inadequate legal defense and compare it with official data.
4. It is further recommended to conduct a comparative study and examine how various media outlets frame contributing factors of wrongful convictions. In the present study, it was found that the *New York Times* tends to use diagnostic frame far more often than other frames, but the outcome may contrast other news outlets, which ideally can lead to identifying the most appropriate way of framing contributing factors of wrongful convictions.

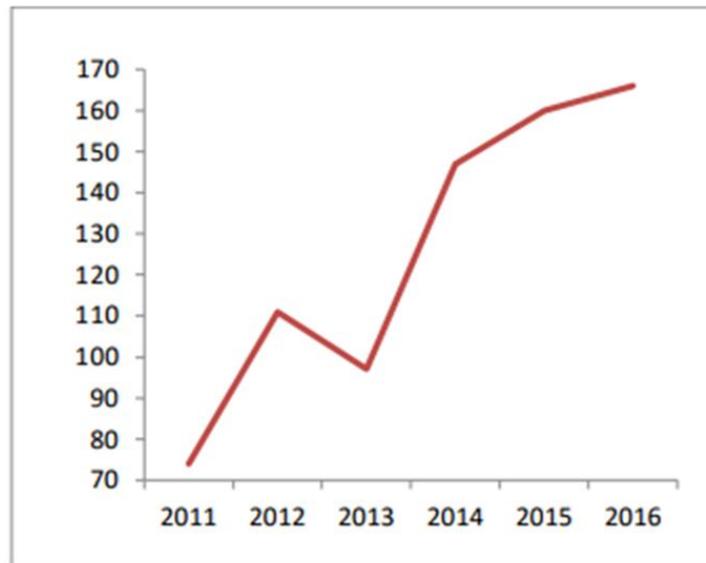
Conclusion

The purpose of the present study was to examine whether media framing of contributing factors of wrongful convictions is proportionate to the official data from National Registry of Exonerations. The present study found that the *New York Times* tends to frame its coverage of wrongful convictions in ways that disproportionally represent the contributing factors. Specifically, the Times post often highlights and diagnostically frames

official misconduct as the most common factor contributing to wrongful convictions. Meanwhile, according to official data (Table 2), the most common contributing factor is perjury and false accusations. However, it is not even in the top three that media most often highlights as contributing factors. In terms of framing, the *New York Times* utilizes diagnostic frame far more often than motivational and prognostic framing, which overall provides a distorted perception about the contributing factors and the problem of wrongful convictions. Furthermore, the study found that when it comes to highlighting official misconduct, *New York Times* utilizes diagnostic framing and, therefore, specifies specific officials to blame for wrongful conviction.

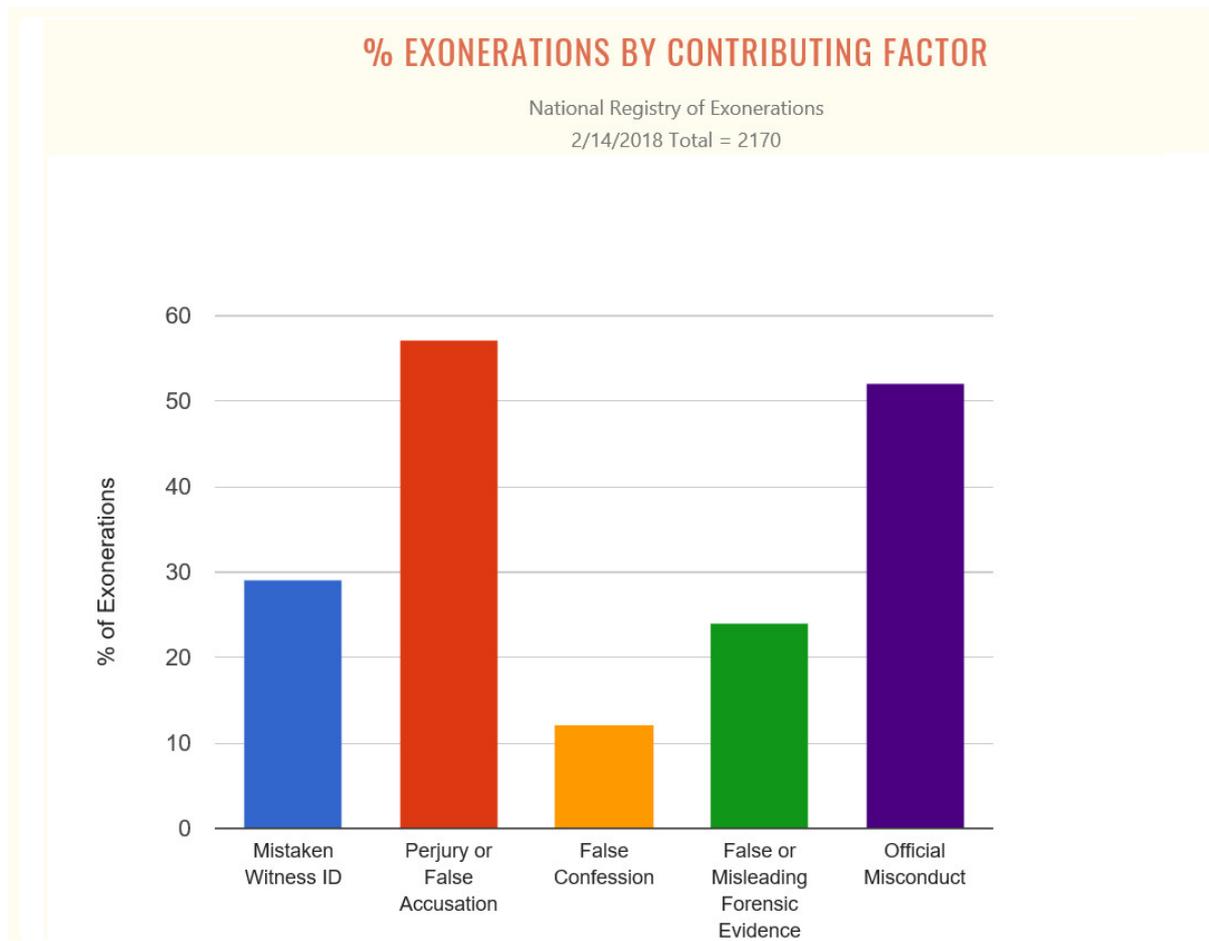
In terms of headlines, the media tends to point out either official misconduct or false or misleading forensic evidence. In other words, if media only highlights these two contributing factors in the headlines it reports to the public that these two are the most common and most significant contributing factors which should be addressed. This is a distorted perception of other contributing factors, such as perjury and false accusations, which tends to be a higher cause of wrongful convictions.

Overall, based on the above literature, media has an impact on the society as it notifies the public about social problems, causes, and proposed solutions. Therefore, it is important for the media to highlight the issue proportionally to the official data so that the public will have an accurate perception about the issue of wrongful convictions, its contributing factors, and other important aspects.

Appendix**Figure 1: Number of Exonerations per Year, 2011 – 2016**

Retrieved from The National Registry of Exonerations (2017, March 7). Exonerations in 2016. Newkirk Center for Science and Society. University of California: CA: p. 3. Retrieved from https://www.law.umich.edu/special/exoneration/Documents/Exonerations_in_2016.pdf

Figure 2



Retrieved from The National Registry of Exonerations. (2018, February 13). % Exonerations by Contributing Factor. Retrieved from <https://www.law.umich.edu/special/exoneration/Pages/ExonerationsContribFactorsByCrime.aspx>

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Figure 3

Title: *Free After 17 Years for a Rape That He Did Not Commit (Motivational Frame)*

•“Mr. Moon and his parents were in the packed courtroom (**Motivational Frame**) to hear the El Paso district attorney, Jaime Esparza, apologize for the wrongful conviction, for himself and for the State of Texas (**Diagnostic Frame**). With them were Barry Scheck, a lawyer from New York whose 12-year-old Innocence Project has accounted for more than half of those exonerated (**Prognostic Frame**), and another lawyer from Mr. Scheck's office, Nina Morrison”

See: Novovitch, B. (2004, December 22). Free After 17 Years for a Rape That He Did Not Commit. Retrieved from <http://www.nytimes.com/2004/12/22/us/free-after-17-years-for-a-rape-that-he-did-not-commit.html>

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