The Social Construction of Wrongful Conviction in Canadian News Coverage

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THE SOCIAL CONSTRUCTION OF WRONGFUL CONVICTION IN CANADIAN NEWS COVERAGE

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Wrongful conviction in news media is understudied in the Canadian context. Accordingly, the current study explores the construction of wrongful conviction in three Canadian newspapers published between 2008 and 2013 through a quantitative content analysis and thematic analysis. A large sample of 280 articles is used to examine how wrongful conviction is defined, how the problem is typified, how wrongfully convicted individuals are constructed, and what solutions are offered or evaluated in media coverage. The results indicate that news media typically reports on sensational cases after the conviction has been overturned and situates the problem in the legal system. Although wrongfully convicted individuals are identified as the primary victim, news media largely ignores the role of systemic discrimination in convicting the innocent and portrays the criminal justice system as self-correcting. Policy implications and directions for future research are discussed.
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CHAPTER 1: INTRODUCTION

In 1985, the New York Times labeled Gary Dotson as an “improbable guest” for CBS’ The Morning Show. Dotson was convicted and imprisoned for the sexual assault of Cathleen Webb in 1979. After Webb recanted her testimony, Dotson was released on bail and had the opportunity to publically broadcast his innocence on live television (Shippee 2008). This miscarriage of justice sparked public shock, sympathy and outcry. The host of the show tearfully leaned in to both Dotson and the camera, and sniffled, “How about a hug?” (Times 1985). Dotson was exonerated in 1989, along with another wrongfully convicted individual (WCI), David Vasquez (Shippee 2008). Over the next few years, several other prisoners were released and their cases became newspaper headlines.

In fact, there has been an increasing recognition of wrongful convictions over the last 20 years in the media (Roach 2012b:1524). Since the late 1980s, the notion of wrongful conviction has “seeped into public consciousness based almost entirely on a number of highly profiled and sensationalized homicide cases, which attracted widespread media attention” (Maidment 2009:16; Roach 2012b:1524; Shippee 2008:2; Zalman 2011:1479; Bandes 2008). Scholars purport that the increased media attention towards wrongful conviction was sparked by advances in DNA evidence which reversed many convictions in the late 1980s and early 1990s (Stevens, 2011; Maidment 2009; Denov and Campbell 2005; Shippee 2008; Bandes 2008; Martin 2002). In fact, Shippee (2008:46) identifies advances in DNA evidence as a major “focusing event” for American media coverage on wrongful conviction. Despite this increased media attention, there is limited research on what this coverage is saying about wrongful conviction.

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1 An article by Michael Serrill in the New York Times on Monday May 27th 1985 discusses Gary Dotson’s appearance on The Morning Show the day before and refers to him as an “improbable guest”.

2 Focusing events are dramatic occurrences that help to draw initial attention to a problem (Birkland 1998:53).
Along with media attention, scholarly attention toward wrongful conviction grew in the late 1980s and early 1990s (Zalman 2011; Bandes 2008; Gould and Leo 2010; Martin 2002). Scholars and criminal justice officials expressed a growing concern over the fact that “wrongful convictions [were] unlikely to be resolved by advances” in forensic science alone (Roach 2012b; Zalman 2011:1501). In turn, scholarly research began to link a variety of causes and factors of wrongful conviction, mostly through case-study analyses on high-profile cases (Zalman 2011:1501). Despite the fact that this research provides information on the causes of wrongful conviction, such research is mainly “legal in focus” (Shippee 2008: 5; Anderson 2011; Zalman 2011) and rarely provides insight into the depiction of wrongful conviction in the media. When the media is examined, it is usually done-so in case studies and has not typically explored Canadian-based media (Zalman, Smith and Kiger 2008:73).

In order to fill these gaps, the current research aims to study how wrongful conviction is constructed in Canadian news media as a phenomenon, outside of particular cases. Thematic analysis and quantitative content analysis were used to analyze newspaper coverage on wrongful conviction from 2008-2013. This research is grounded in a social constructionist approach to social problems which contends that objective conditions are constructed as social problems (Surrette 2007; Loseke 2011). Social problems can be constructed in many different ways, through the use of different claims (Best and Harris 2012:3). The purpose and importance of this study is twofold:

First, it aims to identify trends in the media’s coverage of wrongful conviction. Media coverage of social problems can affect what an audience thinks about and how they think about

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3 For the purposes of this study, “cause” includes causes, forces or factors linked to wrongful conviction. More specifically, “cause” does not strictly refer to causation, but also correlation.
it. Although audience members do not necessarily believe everything they see or hear, what is presented through the media can shape what people consider as social problems (Loseke 2011:41; Best and Harris 2013:173). Moreover, media coverage can shape how the audience understands social problems since mass media is our primary source of information about the world (Loseke 2011:41). In other words, the media’s depiction of crime-related topics can influence public perceptions (Becket 1994; Best 1991; Loseke 2002; Fishman 1979; Sacco 2005 as cited in O’Grady et al. 2010:57; Best and Harris 2012). For example, if wrongful conviction is constructed as a problem of the criminal justice system or criminal justice actors, public confidence in the justice system may in turn be affected. Alternatively, if they are constructed as rare, audience members may be less likely to consider wrongful conviction as a social problem. To the extent that media depictions of wrongful conviction may affect if and how they are problematized and perceived, it is important to identify what the media is saying about them.

Second, this study aims to explore how the media’s depiction of wrongful conviction may contribute to social and policy responses to the problem. In terms of social responses, media constructions of wrongful conviction may be absorbed by citizens and affect their orientation and participation in wrongful conviction policies, cases or advocacy groups (Schneider and Ingram 1993:334). How wrongful conviction is constructed may therefore be a powerful motivator to do nothing, or take action. Moreover, how the media problematizes wrongful conviction (if it does so at all) may affect if and how it is addressed by policy actors (Loseke 2011:111). By highlighting some attributes and discrediting others, “the media can limit the bounds of what makes up the set of feasible alternative solutions to a policy problem” (Wolfe et al. 2013:183;

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4 To be interpreted broadly, audience members are those who see or hear claims about social problems and evaluate the believability and importance of them (Loseke 2011:33; Loseke and Best 2003).
Gingras et al. 2010:283). Therefore, the current study aims to provide insight into how the media’s depiction of wrongful conviction may contribute to social and policy responses to the problem.

*Defining Wrongful Conviction in the Current Study*

For the purposes of this analysis, wrongful conviction was interpreted broadly as: the current or previous conviction of a person for a crime he or she did not commit, or where at least one individual (including the accused) has speculated an unsafe conviction, or claimed he or she did not commit the crime of which s/he has been convicted. Importantly, this definition of wrongful conviction is not constrained by a strictly legal understanding. The criminal justice system focuses on questions of law as opposed to question of fact. The Supreme Court of Canada has defined “miscarriage of justice” as any error which deprives the accused of a fair trial according to law. In other words, a conviction may be deemed a miscarriage of justice without any ruling on guilt or innocence; Canadian courts only focus on “beyond a reasonable doubt”. Furthermore, the legal understanding of “miscarriage of justice” only recognizes individuals whose convictions have been overturned. Instead, the definition employed in the study captures all stages of the criminal justice process after an individual has been convicted. This allows for a broader sample of WCIs since it includes those who are fighting to reverse their conviction. It also allows for a more diverse sample since constructions of wrongful conviction may change before and after a conviction has been overturned.

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1.2 Chapter Overview

Chapter two of the current study synthesizes relevant literature and applies a social constructionist approach to the depiction of wrongful conviction in news media. Social problems work is evaluated and applied to the current study to guide the research focus and identify assumptions about how objective conditions become social problems. Next, academic literature is explored, including: media studies on wrongful conviction; research on the causes and factors of wrongful conviction; and social and policy responses to wrongful conviction. Chapter three outlines the methodology of the study. It first describes data collection and the sample. Next, the analytical strategies of thematic analysis and quantitative content analysis are outlined and applied to the current research. This chapter concludes with a discussion of the methodological limitations. Chapter four presents and discusses the results in the context of literature on wrongful conviction. The findings are used to relay information on how wrongful conviction was defined, how the problem was typified, how WCIs were constructed, and what solutions were offered or evaluated throughout the coverage. Chapter five addresses the second research objective of the current study – namely, to explore how the media’s depiction of wrongful conviction may contribute to social and policy responses to the problem. Potential implications for the treatment of WCIs and their cases are discussed. The current study concludes with an examination of limitations and how these provide important avenues for future research.
CHAPTER 2: THEORETICAL APPROACH AND LITERATURE REVIEW

2.1 Introduction

This chapter begins by describing the theoretical approach used in the current study—a social constructionist approach to social problems. The evolution of this approach is briefly reviewed to situate the current research in older and newer contributions to constructionist literature. Related theoretical concepts, such as claims-making and the social problems game, are described and applied to the current study. Next, relevant literature on wrongful conviction is synthesized with a focus on three topics: wrongful conviction and the media; themes in academic literature on wrongful conviction; and social and policy responses to wrongful conviction. Both the theoretical approach and literature review have impacted the research design. The final section of this chapter outlines the research question that guides the current study.

2.2 The Social Constructionist Approach to Social Problems

The Beginning and Evolution of the Approach

In general, the social constructionist approach is about interpretations of reality, and how knowledge is attained to construct our reality (Berger and Luckmann 1966). The present research is more narrowly focused on how this approach has been applied to social problems. Some scholars refer to this as “social problems work”, whereby a variety of constructionist perspectives have influenced assumptions about the nature of social problems.\(^6\) Essentially, the

\(^6\) Ex. Holstein and Miller (1993), Loseke (2011) and Best (2002) refer to the constructionist approach to social problems as “social problems work”.
social constructionist approach purports that social problem status is not to be understood as an objective condition, “but rather as a function of the claims made by individuals or groups” who seek the problematization of a particular condition (O’Grady, Parnaby and Schikschneit 2010:57). In other words, objective conditions are constructed as social problems (Surette 2007).

The social constructionist approach to social problems was largely defined by Malcom Spector and John Kitsuse in the late 1970s. Their most influential work, Constructing Social Problems (1977), was an alternative response to the structural functionalist approach to social problems (Weinberg 2009:61; Holstein and Miller 1993:5). The structural functionalist approach assumes that social conditions exist separately from human interpretation (Holstein and Miller 1993:5). In other words, structural functionalists use objective indicators to determine what constitutes a social problem. Spector and Kitsuse (1977) disregarded this approach by arguing that it is impossible to know the objective status of conditions (as cited in Holstein and Miller 1993:5). They denied the role of objective conditions in defining social problems, and instead focused on subjective interpretations (Best 2002:704). As such, Spector and Kitsuse (1977) theorized that there is no such thing as a “real” social problem (as cited in Holstein and Miller 1993:5). People decide what is (and what is not) a social problem by the way they react to things; social problems are constructed (Harris 2012:3; Loseke, 2011:5).

Although Malcom Spector and John Kitsuse paved the way for social problems work, their original approach to social problems faced criticism from fellow constructionists. The first

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7 Although other scholars began to “wrestle with the concept of social problems” (such as Herbert Blumer 1971 or Armand Mauss 1975), Spector and Kitsuse’s book, Constructing Social Problems, has been regarded as the benchmark for constructionist approaches to social problems (Miller and Holstein 1993:3), and as having the greatest impact on social problems theorization (Best 2002:700).
8 Constructing Social Problems (1977) offers what is generally known as the “quintessential statement” of the social constructionist approach to social problems (Miller and Holstein 1993:3).
critique accused Spector and Kitsuse of unacknowledged objectivism. Critics argued that any explanation of social problems is consequently the author’s own construction of reality (Harris 2012:5; Troyer 1993:118). Once the researcher analyzes various claims to a particular problem, he or she must decide which claim is the most “truthful”, and therefore moves towards an objectivist framework (Harris 2012:4). Second, Woolar and Pawluch (1985:214) charged Spector and Kitsuse with “ontological gerrymandering”. They argued that constructionist analysts were adopting a theoretically inconsistent stance since they continued to make assumptions about the nature of social conditions (Best 2002:704; Troyer 1993:118). Since the constructionist argument assumes that changes in claims-making are independent of social conditions, it therefore depends on some assessment of conditions, even if that is not the main focus of the analysis (Best 2002:704).

Ibarra and Kitsuse (1993) responded to these critiques by shifting focus away from how conditions become social problems, and towards the discursive strategies in which social problems are formulated in public discourse (Hammersly 1996; Holstein and Miller 1993:6). They modified the constructionist approach by arguing for a strict reading of *Constructing Social Problems* that “attends exclusively to claims-making activities” and how claims are articulated (Weinberg 2009:62; Neuenschwander 2006:7). Other constructionists, such as Best (1993) and Holstein and Miller (1993), argue for a more contextual approach to social problems work. In this contextual approach, the analyst might go beyond discursive claims to understand the claims-making process, while still acknowledging assumptions about objective conditions (Weinberg 2009:62).

A more contextual approach to social problems work is adopted in the current study. Although both approaches focus on claims, the contextual approach allows for more practical
applications and is less about abstract theory (Best 2002:704). Moreover, social problems work has continued outside of these theoretical debates (Weinberg 2009:61). Such constructionist approaches assert that it does not matter if the problem exists objectively; it only matters that claims construct the condition as a public problem that requires change (Wondemaghen 2013:2). More specifically, constructionist researchers have explored the social processes through which conditions are constructed as problematic, and through which prospective remedies are produced, implemented, and evaluated (Weinberg 2009:61).9

*Social Problems, Claims-Makers, and the Media*

Objective conditions can exist without subjective worry; not all conditions become social problems (Loseke 2011:8). People define which conditions are considered social problems by the way they react to things (Best and Harris 2012:3). Therefore, for a social problem to exist, at least one person must notice a situation, interpret it as bothersome and inform other people about it (Best and Harris 2012:4). Loseke (2011) contends that in our daily lives, the term “social problem” is normally used to categorize conditions that we believe are troublesome, prevalent, can be changed, and should be changed (Loseke 2011:7).

Social problems can be, and often are, constructed in many different ways through the use of different claims (Loseke 2011). Each definition of a condition constructs a different type of problem. Moreover, the way that the problem is defined often influences the way the solution is defined (Best and Harris 2012:4). For example, crime can be constructed as a “social, individual, racist, sexual, economic, criminal justice, or technological problem, and each

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9 Empirical studies employing the constructionist approach demonstrate how conditions such as AIDS (Epstein 1996), alcoholism (Schneider 1978), battered women (Loseke 1992), child abuse (Pfohl 1977), hate crimes (Jennes 1995), and stalking (Lowney and Best 1995) have been constructed as problems worthy of particular types of public consideration and concern (Weinberg 2009:61-62).
construction implies different policy courses and solutions” (Surette 2007:35). The current study aims to analyze claims about the nature of wrongful conviction, its causes, and its solutions.

From a constructionist point of view, all assertions about social problems are claims, regardless of who makes them (Best and Harris 2012:11). Claims can be seen as an answer to the question, “what is the problem?” and every claim needs a claims-maker, or someone who presents the claim (Best and Harris 2012:11, 47). In other words, social problems are a “function of the claims made by individuals or groups who [seek] the problematization of a particular condition” (O’Grady, Parnaby and Schikschneit 2010:57).

Claims-makers use the media as an outlet for their claims, in hopes that the people who hear them may be moved to join their cause (Best and Harris 2011:173; Loseke 2011:41). There are a number of benefits for using the media as an outlet. First, media coverage is a primary source of information for the general public and can influence the audience’s understanding of a social problem (Loseke 2011:44). Second, transmitting claims through the media is a relatively quick and inexpensive way to reach the largest possible audience (Best and Harris 2011:173). Last, media coverage of a social problem may help convince policy actors that they need to react (Best and Harris 2011:173). The media plays a vital role in constructing most social problems, and is therefore the focus of the present research.

Media workers may either be primary or secondary claims-makers. Primary claims-makers search out information and create their own claims, similar to social activists (Loseke 2011:41). Advocacy groups and academic researchers are likely to be primary claims-makers of wrongful conviction since their work is organized around the social problem. In contrast,  

10 At times, advocacy groups and academic researchers may also be considered secondary claims-makers if they translate and modify claims made by others. Moreover, it should be noted that competing claims can exist between
secondary claims-makers translate and package claims made by others (Loseke 2011:41). Media workers are usually secondary claims-makers who have the power to modify claims in a variety of ways for a variety of reasons (Lowney 2008:344). Primary claims-makers of wrongful conviction may therefore have their messages modified in news articles. Media portrayals of wrongful conviction may combine various claims or omit certain aspects of the problem.

The Social Problems Process and the Social Problems Game

Troublesome conditions become social problems in what Best (2008) refers to as the “social problems process” (as cited in Lowney 2008:332). The present research aims to examine how wrongful conviction has been constructed in this process. The social problems process begins with primary claims-makers who are “roused by a troubling condition in the social or physical world” (Lowney 2008:333). Second, claims-makers strategically package their concerns into claims to persuade audience members and gain supporters of their cause. This is what Loseke (2011:65) refers to as the “social problems game”, whereby claims-makers must compete to have their claims be heard and addressed.

The third and fourth stages of the social problems process focus on public reaction to the claims-making campaign, and the social and policy responses to the problem (Lowney 2008:335). Successful claims-making campaigns may penetrate policy actors’ decisions about which conditions are pertinent social problems. Policy actors, or “people who have the power to change policies”, may respond to the social problem in various ways (Best and Harris 2012:229). For example, they may pass laws, establish regulations, alter taxes to discourage behaviours, start programs, or cut funding (Best and Harris 2012:229; Loseke, 2011:114). Alongside

or among them.
government officials, “policy actors” include people and organizations from the private realm (Loseke 2011:115). For example, a private corporation may change company policies, change product designs, or raise costs on various merchandises. Although policy actors can be differentiated from the general public, people in the policy arena “live in the same social arena” as general audiences (Loseke 2011:115). While constructionists have drawn on various public policy theories to analyze why certain polices are enacted, the current study does not attempt to demonstrate how the construction of wrongful conviction has directly affected specific policy outcomes. Instead, media depictions are viewed as potential contributors to policy outcomes, alongside other claims-making dialogues and contextual features in the social problems process (Ismaili 2006:260; Lowney 2008:334).11

11 Constructionists have drawn on various public policy theories to analyze how and why certain policies are enacted, such as Kingdon’s (1984) model of streams or Stone’s (2002) analysis of causal stories (Lowney 2008:335). However, recent constructionist research has acknowledged the role of claims in policy decisions without the incorporation of specific public policy theories. For example, Wondemaghen (2013) contextualizes a school shooting constructed as a “gun-problem” in political arguments for gun laws and solely relies on Spector and Kitsuse’s (1973) four-stage history model of how some objective conditions are recognized as social problems over others.

The last step in the social problems process involves reactions and evaluations of the policy after it has been implemented (Lowney 2008:337). Reactions from oppositional claims-makers may be negative and unsupportive of policy responses. Competing claims-makers may denote the policy through new claims about the social problem (Best and Harris 2012). A policy may also spark new interest among different claims-makers, who have a variety of claims-making positions. The process can therefore become cyclical (Lowney 2008:338). The current study does not attempt to place the construction of wrongful conviction in a particular stage of the social problems process. The process is rarely linear and steps often occur simultaneously (Lowney 2008:338). For example, some news articles covering wrongful conviction include
claims about existing policies, and would therefore fall in both the first and last stages of the process.

*Constructing Packages of Claims*

Claims-making involves constructing grounds, causes, people and solutions in ways to motivate audience members to think and feel in particular ways (Loseke, 2011:72; Lowney 2008; Loseke and Best 2003). Understanding these claims-making strategies is important to the current research since news coverage on wrongful conviction may adhere to common constructions identified by previous social problems work. The results of the current study may therefore contribute to social constructionist literature and news studies. Moreover, Loseke’s (2011) identification of these areas of claims-makings -- grounds, causes, people, and solutions -- has informed the four focus areas of the current study.

*Constructing Grounds.* First, claims-makers typify social problems in ways that encourage audience members to perceive the condition as widespread, harmful, and wrong (Loseke 2011:67). Claims-makers construct the grounds of a condition in order to give the audience the facts or the basic information including the definition of the problem, the harm it creates, and the extent of this harm (Lowney 2008:341; Loseke 2011:68). The parameters of the condition are constructed when claims-makers define what is included in it (Loseke 2011:68; Loseke and Best 2003). For example, does wrongful conviction include summary offences or are the parameters limited to indictable offences? Do wrongful convictions only harm WCIs or are there other victims who are affected by the social problem? Therefore, the grounds of wrongful conviction are constructed when claims-makers define the parameters of the problem, what kind of harm it creates, and how many victims are affected by such problem.
Constructing Cause and Typifying the Problem. In order to give meaning to the facts, claims-makers construct a social problem frame, which may include diagnostic frames, motivational frames, and prognostic frames (Loseke 2011:69; Loseke and Best 2003:77). Diagnostic frames construct the meaning of the condition, including what type of problem it is and who or what causes the problem (Loseke 2011:69). Loseke (2011:73) identifies three common ways that problems are typified: 1) as a problem of social structure; 2) as a problem of social forces; 3) as an individual problem. As such, wrongful conviction may be framed as a certain type of problem throughout Canadian news media. For example, wrongful conviction may be typified as a problem of social forces if it is linked to bias or racism. Alternatively, wrongful conviction may be constructed as an individual problem if a person’s behaviour or beliefs have been depicted as the cause of the conviction.

Claims-makers must also persuade audience members that the condition cannot be tolerated and must be changed (Loseke and Best 2003:77; Loseke 2011:76), which they attempt to achieve through the use of motivational frames. Motivational frames may appeal to logic, whereby claims-makers can encourage audience members to support their cause by constructing conditions as violating cultural themes (Loseke 2011:77; Lowney 2008:341). Cultural themes are “generally accepted ideas about how the world should work”, such as the importance of fair play (Loseke 2011:77). If the social problem of wrongful conviction is depicted as a violation of a cultural theme, this may motivate audience members to respond.

Constructing People. Social problems work also includes the construction of the victims of the social problem and the villains who cause it (Loseke 2011:91; Best and Harris, 2012). Alongside an appeal to logic, motivational frames may also appeal to emotion in order to persuade audience members to care about the social problem. More specifically, motivational
frames may encourage feelings of sympathy towards victims or hatred towards villains. In turn, audience members may be motivated to evaluate the condition as a social problem worthy of their attention. Loseke (2011:92) and Christie (1986:18) contend that audience members only offer help to people (or believe that help is needed) when they are evaluated as worthy of sympathy or compassion. Sympathy tends to be generated for those who are seen as innocent, moral, relatable, and in great need of help (Loseke 2011:91-93). In other words, wrongfully convicted individuals (WCI) may become victims deserving of sympathy if they are constructed as “morally good people who are greatly harmed through no fault of their own” (Loseke 2011:92). Sympathy can be achieved through the use of narratives that “personalize the victim” and demonstrate how they were harmed by the problem (Loseke, 2011:95).

Similarly, claims-makers may use narratives when constructing villains. As previously mentioned, diagnostic frames construct who or what causes the problem. Villains can be things (social structure or social forces) or people who are constructed as responsible for the condition (Loseke 2011:96; Loseke and Best 2003:77). Similar to how sympathy compels the audience to help victims, villains may only be condemned if they are seen as blameworthy (Loseke 2011:96). Blame is usually assigned when audience members believe that the harm was intentional, or else the condition may be categorized as an accident (Loseke 2011:97).

Constructing the Solution. Claims-makers must construct a solution to the troublesome condition in order to reach their goal of ameliorating or eliminating the problem. Claims-makers use prognostic frames which legitimize certain solutions, construct specific indicators of success, and assign specific people or groups the responsibility for changing the condition (Snow and Benford 1988 as cited in Loseke 2011:111; Loseke and Best 2003). Claims-makers must ensure that their proposed solutions are consistent with constructions of conditions and people (Loseke
2011:113; Best and Harris 2012). How the problem is perceived may affect the policy solution. For example, if wrongful conviction is depicted as problem of judicial misconduct, the solution may be to reform judicial practices or behaviour.

Policy change is not the only outcome that claims-makers may seek. Some claims-makers argue for social change, and more specifically changes in culture (Loseke 2011:126). Claims may affect the way we make sense of the world, ourselves, and others (Loseke 2011:126, 128). For example, rather than push for a policy that prevents wrongful conviction, claims-makers may seek a change in societal attitudes towards them. Additionally, social responses may be affected by how people are typified (Loseke 2011:126). Claims-makers may construct a typical WCI, and therefore shape societal notions of who becomes wrongly convicted and whether the public sympathizes with them. Media claims about wrongful conviction and WCIs are therefore important to analyze.

2.3 Literature Review

*The Media and Wrongful Conviction*

Jenkins (2013a), Overton (2008), and Shippee (2008) are among the few researchers who have analyzed wrongful conviction in the media in recent years. Although these works draw from different theories, the power of the media to shape social, policy and criminal justice responses to wrongful conviction is a shared conclusion. These studies provide relevant information on journalists’ sources of information, the importance of newsworthiness, and differences in the construction of wrongful conviction among varying sources of media.
First, these studies discuss how journalists’ source of information may affect the depiction of wrongful conviction throughout the criminal justice process. Jenkins (2013a:331) examined the construction of miscarriages of justice in the United Kingdom through conducting 132 interviews with legal practitioners, journalists, WCIs, and their supporters. He (2013a) synthesized journalists’ common considerations and influences when writing about wrongful conviction cases. These interviews illustrated a close relationship between journalists and the police, whereby information was frequently sourced from the officers involved. In fact, one participant (an investigative journalist) was refused access to a press conference organized by the police because he had earlier questioned the prosecution’s case against the defendant (p.338). Consequently, the defendant’s side of the story may be left out of the conversation. In fact, based on Weisman’s (2004:129) findings, lawyers may deemphasize their client’s innocence because an offender’s lack of remorse may affect how they are sentenced. Given the imbalance in sources of information that journalists access, they may exclude or downplay claims of innocence by defendants during the trial, or by the newly convicted once the verdict is given.

Similarly, the news coverage examined in Shippee’s (2008) analysis typically focused on DNA exoneration cases, demonstrating the tendency to comment on an individual’s innocence only after their conviction has been overturned. Shippee (2008) analyzed the discourse of wrongful conviction overtime in 260 American news stories (published between 1989 and 2008) and four advocacy websites. The study “consisted of a general sample of Associated Press (AP) news stories about wrongful conviction, as well as an additional oversampling for the most significant

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12 Weisman (2004:123) found that a lack of remorse can affect sentencing practices. First, “expressions of remorse play a role in whether to impose conditional sentences” (R. v. Proulx as cited in Weisman 2004:123). Second, pre-sentence reports include “the willingness to make amends”, which has been interpreted as requiring an evaluation of whether or not the offender shows remorse (R. v. J. M. 1998 as cited in Weisman 2004:123).
news events” (Shippee 2008:34). His (2008) research provides valuable insights into which events in the United States grabbed media attention. However, the use of purposive sampling does not make the findings of this study generalizable to how wrongful conviction is constructed outside of American focusing events.

Second, these studies demonstrate the importance of “newsworthiness” when reporting on wrongful conviction. The journalists in Jenkins’ study (2013a:332,354) reported that editors only accept stories which fit a “particular narrative” that support “specific journalist imperatives” at the time. In fact, Jenkins (2013a:337) discusses how crime-reporters often “celebrate” convictions. Once convicted, defendants may then be portrayed as criminals, who the media is glad to announce have been convicted and incarcerated for their crime. In turn, this can affect their ability to campaign for their innocence. Similarly, the emphasis on newsworthy cases was evident in Shippee’s (2008) study since news stories typically focused on high-profile cases and sensational events. Most cases which have been picked up by news media involve what may be known as serious offences, including murder or manslaughter, sexual offences, and armed robbery (Jenkins 2013a:340; Shippee 2008; Roach 2012b:1471). However, wrongful convictions may occur outside of these more serious offences, such as summary offences or those not punishable by incarceration (Roach 2012b:1471).

13 Shippee (2008:35) defined five events and trends to be most relevant based on an overall review of the general survey of AP stories and other sources (e.g. websites). These five events and trends were “the first two DNA exonerations in 1989; the debate surrounding the use of DNA in the O.J. Simpson case…; laws granting access to DNA testing…; Governor Ryan’s moratorium and commutation for death penalty inmates…; and laws granting compensation for exonerees”.

Based on Overton’s (2008:iv) findings, entertainment movies also focus on murder, manslaughter, and sexual assault cases. Overton (2008:iv) explored the depiction of wrongful conviction by analyzing 23 American entertainment movies released between 1960 and 2007, which were obtained from The Internet Movie Database (IMDb), Forejustice, and Justice Denied (p. iv). The findings were compared to the “actual factors and characteristics of the phenomenon in order to ascertain similarities and differences” (p. iv). Using the “realities of wrongful conviction” as a point of comparison is problematic because Overton (2008) assumes a consensus among wrongful conviction scholars. As will be further discussed, some areas of wrongful conviction research – namely, the causes and factors surrounding wrongful conviction – are debated.

Overton (2008:iv) found that the depiction of forensic science in entertainment movies was inconsistent to the “realities of wrongful conviction”. This finding is contradictory to how news media has depicted forensic science since the use of DNA evidence in overturning wrongful convictions has been well-documented in news coverage since the late 1980s and early 1990s (Stevens 2011; Zalman 2011; Maidment 2009). In fact, Shippee (2008:46) identifies advances in DNA evidence as a major focusing event for American media coverage on wrongful conviction. Unlike news media, entertainment movies typically omitted the use of forensics (Overton 2008).

The advocacy websites in Shippee’s (2008:43) study also differed from that of news media since they tended to report on patterns of wrongful conviction outside of sensational cases, such as its common causes. The focus on specific instances or cases in news media (Shippee

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15 Overton’s (2008) sample excluded documentaries, comedies, animated films, films made outside of the United States, films depicting convictions in another country, and made-for-television movies.
16 Focusing events are dramatic occurrences that help to draw initial attention to a problem (Birkland 1998:53).
2008; Jenkins 2013a) can have important effects audience members’ recognition of the problem. More specifically, Iyengar and Kinder (1987) found that relatively small exposures to specific instances of a problem were sufficient to “induce significant shifts in viewers’ beliefs about the relative importance of various issues” (as cited in Iyengar and Simon 1993:367). However, reporting on one case at a time ignores how such cases may be related to each other. Since episodic news frames depict public issues in terms of “concrete instances of specific events”, audience members may be encouraged to settle on causes and solutions which “fit” the observed problem (Iyangar and Simon 1993:369; Benjamin 2007). This is in contrast to thematic news frames which place public issues in “some general or abstract context” (Iyangar and Simon 1993:369). While the media may tend to simplify the problem through episodic frames, academic literature has widened the parameters of the problem by linking wrongful conviction to several causes, forces and factors.

Themes in Academic Literature on Wrongful Conviction

Academic literature on wrongful conviction and its causes or factors can be synthesized into three distinct yet overlapping themes or waves of thought: wrongful conviction is inherent in the system; wrongful conviction is legally situated errors; wrongful conviction is a systemic issue. Although the focus of academic research has changed overtime, scholars of wrongful conviction continue to conduct research that contributes to any or all of these themes.\textsuperscript{17} Through associating different causes and factors with the problem, scholars have become a part of the

\textsuperscript{17} For example, Anderson and Anderson (1998:17) use two different levels of analysis when analyzing wrongful conviction: the first level involves the professional and bureaucratic wrongdoings of the justice system, and the second level involves systemic social inequalities which causes certain individuals and groups to become more frequent victims of wrongful conviction.
social problems process. Identifying how wrongful conviction has been studied overtime is therefore important for understanding how it has been constructed.

Wrongful conviction research was scant before the late 1980s (Leo 2005; Gould and Leo 2010; Zalman 2011). Gould and Leo (2010:828) contend that before this time, “it might have seemed bizarre, if not incoherent, to suggest that the study of miscarriages of justice constituted a field or area in academic study rather than merely a series of unrelated and relatively infrequent articles and books”. It was not until advances in DNA evidence in the early 1990s that wrongful conviction gained attention from scholars, advocacy groups, and policy actors – known as the “innocence movement” in the United States (Findley 2008; Zalman 2011; Zalman 2006; Bandes 2008; Maidment 2009; Roach 2012b).\(^{18}\) DNA was used to exonerate several high-profile WCIs and was celebrated as a useful tool in the insurance of justice (Zalman 2011; Findley 2008; Bandes 2008), but in the last two decades, “many more exonerations have emerged in cases with no DNA” (Findley 2008:9). Academics and policy actors became concerned that wrongful convictions were unlikely to be resolved by DNA evidence alone, and in fact, DNA was called into question (Roach 2012b:1465; Zalman 2011). Human error when interpreting scientific evidence was then identified as a common cause contributing to wrongful conviction (Zalman 2011; Bandes 2008; Denov and Campbell 2005; Martin 2002).

Although this potential for subjectivity is important to recognize, criminal justice actors have used the “humanness” of the criminal justice system as an excuse for the problem (Maidment 2009; Anderson and Anderson 2009). Upon Guy Paul Morin’s exoneration, Leo

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\(^{18}\) In addition to DNA evidence, Zalman (2011) discusses several other factors that had contributed to the “innocence movement” in the late 1990s in the US. He argues that researchers have over-simplified this process with “DNA happened, innocent prisons were exonerated, and innocent projects” sprung up” (Zalman 2011:1467). However, he recognizes that the advent of DNA is still an important contributing factor to the increased attention towards wrongful conviction.
McGuigan, the prosecutor in Morin’s case, told the press gathered outside the courthouse that “the justice system in this country is run by human beings. It does on occasion make mistakes [and] this was one of them” (Clayton 1995:9). Anderson and Anderson (2009:8) describe this as typical in how those in the system rationalize wrongful conviction, with over-simplistic references to “unfortunate human error”.

Wrongful convictions as inherent in the system. Similarly, some academic research assumes that wrongful conviction is unavoidable and inherent in the system. Throughout history, dating back as early as 1471, there have been documented opinions on how many guilty persons should escape or go free for the price of punishing one innocent person (Lauden 2006:63). For example, the Blackstone ratio, named after William Blackstone, claims “it is better that ten guilty persons escape punishment, than one innocent suffer” (Blackstone 1760s as cited in Lauden 2006:63). However, not all scholars have agreed on this ratio, and instead some purport that it is better that only 5 guilty persons go free, while others say one thousand (Lauden 2006:63). As Overton (2008:14) points out, “logically, there has always existed the possibility of punishing those who were innocent of the charges laid against them”. However, how many innocent individuals have been punished and how many is an acceptable rate? It is extremely difficult, if not impossible, to know exactly how many individuals are wrongfully convicted in Canada.\(^\text{19}\) Despite this difficulty, scholars continue to calculate the system’s error rate (ex. Marquis and

\[^{19}\text{It is difficult to determine how many individuals have been wrongfully convicted in Canada for three reasons: This first reason is the ambiguity previously discussed about what constitutes a wrongful conviction. The second reason is the “unwillingness of the legal system to make determinations of innocence, [and the third reason] is that there is simply no way to determine how many wrongful convictions occur, but remain undetected” (Roach, 2012b: 1471). Moreover, Zalman (2011:1472) points out that no government agency or private organization maintains a comprehensive census of wrongful conviction.}\]
Calculating an error rate assumes that wrongful conviction is scientifically expected and Blackstone ratios are dependent on at least one wrongful conviction. In this sense, the problem may be seen as natural, ever-present, and unavoidable in the criminal justice system. However, other scholarly research has denied the inevitability of wrongful conviction by identifying several different changeable causes of the problem (Martin 2002; Zalman 2011; Bandes 2008). Wrongful conviction became disconnected from the “complacent or pessimistic view” that system errors are inevitable and “nothing can be done to correct conditions that lead to wrongful conviction” (Zalman 2011:1501).

Wrongful convictions as legally-situated errors. Since the 1990s, scholars have linked a variety of causes and factors to wrongful conviction (Zalman 2011:1501; Gould and Leo 2010; Maidment 2009). This differs from the view of wrongful conviction as natural or inherent in the system because research branched out from a focus on error rates towards the causes of error. There are a variety of causes which fall under this wave of thought, including: misuse of jailhouse informants; misleading circumstantial evidence; non-disclosure by the Crown and police; false confessions; eyewitness misidentification; misuse of expert evidence; mishandling of alibi witnesses; reliance on trial court during the appeal process; inadequate legal aid funding; inadequate defense work; and prosecutorial misconduct (Maidment 2009:18; Gould and Leo 2010:841; Anderson and Anderson 2009:10; Roach 2012b:1525; Denov and Campbell 2005:227; Stevens 2011:234).
These causes are primarily “legally-situated” since they all point to issues in the court or legal system (Maidment 2009:14; Anderson and Anderson 2009:10; Zalman 2011; Anderson 2011). Zalman (2011:1501) explains how these legal factors have been “derived inductively from case descriptions” (Shippee 2008:5). One problem with these analyses is that each story or case could “generate outlier explanations” (Zalman 2011:1501). Additionally, these legally-situated mistakes ignore wider social and systemic factors which contribute to wrongful conviction. Although many scholars still conduct research through a legal lens (ex. Roach 2012b; Gould and Leo 2010), more recent academic research has gone outside of the legal system.

Wrongful conviction as a systemic issue. The most recent theme in academic literature revolves around more systemic factors which contextualize wrongful conviction. It looks into the broader functioning of society, as opposed to causes specific to individual cases (Leo 2005 as cited in Overton 2008:24). Some of these more systemic causes may include: systemic racism, tunnel vision\(^\text{20}\), class bias toward the poor, sensationalism of crimes by the media, and the impact of crime control strategies (Maidment 2009:14). In this theme, academics may dig deeper to look into the social systems that contribute to the occurrence of more legal causes (Castelle and Loftus 2011 as cited in Denov and Campbell 2005:226).

Research on the systemic causes of wrongful conviction has pointed out that WCIs often share similar demographic characteristics. Systemic biases towards race may affect the likelihood of wrongful conviction, and how individuals are treated once wrongfully convicted (ex. Smith and Hattery 2011; Anderson 2011). Additionally, Maidment (2009:11) has purported

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\(^{20}\) Tunnel vision is the “the single minded and overly narrow focus on an investigation or prosecutorial theory so as to unreasonably colour the evaluation of information received and one’s conduct in response to the information” (Royal Commission on the Donald Marshall Jr. Prosecution, Digest of Findings and Recommendations as cited in Roach 2012b:1503).
that WCIs are usually the marginalized in society. Anderson and Anderson (1998:1) have long argued that certain individuals and groups who are socially, politically and economically powerless are more likely to become victims of wrongful conviction. Class bias, racial discrimination and social inequality increase the probability that marginalized people become the victims of wrongful conviction (Bell, Clow and Ricciardelli 2008:78). Racial minority groups and individuals from poorer neighbourhoods have a higher probability of being arrested and convicted, which likely affects the probability of wrongful conviction as well (Tanovich 2006; Wortley 1999 as cited in Bell et al. 2008:78). In fact, out of 180 convictions which were overturned through DNA evidence in the United States as of 2006, 61 percent of the individuals convicted were African American and the majority were classified as “poor and forgotten” (Innocence Project 2007 as cited in Bell et al. 2008:78).

As a result, Anderson (2011:iv) argues that we need to “rethink the study of wrongful convictions” in Canada when referring to race. Although the United States has recognized racial disparities in the conviction of the innocent, mainstream discourse in Canada mainly excludes race in explaining wrongful conviction, including how Aboriginal individuals may be differentially affected (Anderson 2011:iv). Furthermore, Canadian wrongful conviction research may benefit from a further look into gender, age and socio-economic disparities in the criminal justice system, and how these may contribute to wrongful conviction or affect the treatment of WCIs (i.e. from criminal justice officials or in media). Referring back to the media’s emphasis on newsworthiness, if an individual’s “story” does not fit with “journalistic imperatives at the time”, their voices may never reach the public sphere (Jenkins 2013a). It is therefore of interest to examine if Canadian news media recognizes racial minorities or the marginalized as regular victims of wrongful conviction.
Social and Policy Responses to Wrongful Conviction

How the media constructs wrongful conviction can affect if and how the problem is addressed and may illuminate the focus of previous and potential policy recommendations towards it. The increased media attention towards wrongful conviction in the late 1980s to mid-1990s was met with responses from government. In particular, the publication of wrongful conviction cases started to create a record of the problem which demanded attention from policy actors (Gould and Leo 2010:864). Maidment (2009:14) has argued that the public knowledge and media attention surrounding wrongful conviction has been “generated largely from the collection of public inquiries that have investigated” them. Roach (2012b:1474) has claimed the opposite: that the increased media attention pressured government officials to react to wrongful conviction, and such officials subsequently responded through holding public inquiries. Despite these differences, both Maidment (2009) and Roach (2012b), among others, recognize that expensive public inquiries with long lists of recommendations have been the go-to policy to address wrongful convictions (Katz 2011; Anderson and Anderson 2009). In fact, since 1990, several “provincially commissioned public inquiries have convened to directly investigate both the causes and remedies of wrongful convictions [in Canada]….The combined final reports from these inquiries exceed 20,000 pages and have generated some 491 recommendations” (Maidment 2009:18).

Inquiries have provided a wealth of information about why a specific case has resulted in a miscarriage (Katz 2011). However, they “provide relief to a very few” since they are restricted to high-profile cases and are only available at the behest of the provinces (Katz 2011; Maidment 2009). Denov and Campbell (2005:245) argue for a more expedient and accessible response to wrongful conviction, since these inquiries may take “many months of hearings and
presentations” and only offer solutions with respect to select cases. The various recommendations made in these inquiries have “the potential to force criminal justice ministries to examine the practices that contribute to wrongful conviction and take steps to rectify them” (Denov and Campbell 2005:244). However, these recommendations do not carry any “binding precedential value” and the extent to which provincial governments have implemented them is unclear (Wolson and London 2004:678; Denov and Campbell 2005:244). For example, since 1989, several Canadian inquiries have recommended the creation of an independent review commission for wrongful conviction (Roach 2012a:283). However, no such commission has been implemented.

Inquiries have also been unlikely to take into account the perspective of WCIs themselves (Denov and Campbell 2005). By ignoring the personal experiences of such individuals, inquiries may not be able to capture other factors linked to the problem. This limits the collection of information on wrongful conviction, which may also limit which solutions are offered to address the problem. Since the focus of these inquiries is often on prevention, most do not discuss the hardships faced by WCIs once released (ex. establishing innocence, or receiving financial compensation) (Denov and Campbell 2005). This is problematic because attention is drawn away from addressing wrongful convictions once they occur. For example, there is no unified or regulatory system of granting financial compensation to those who have been wrongfully convicted (Mijares 2012:8). In the few cases of recognized wrongful conviction, the “grounds for the decisions granting compensation…have been completely different even though they involve[d] cases with similar circumstances” (Mijares 2012:8). Inquiries have yet to focus on this matter. By examining how news media has depicted the problem, the current study aims to better understand why all-talk and no-action inquiries have been the typical response from government.
More recently, the Canadian government has published reports and mandated committees that are concerned with the prevention of wrongful conviction outside of any one particular case. For example, in 2011, the Prosecutions Subcommittee of Federal/Provincial/Territorial Heads or the “Working Group” on the Prevention of Wrongful Convictions published, “The Path to Justice: Preventing Wrongful Convictions”. This report was a follow-up to the 2005 Report written by the same organization. These reports review the previous public commissions of inquiry and discuss identified causes of wrongful conviction alongside numerous recommendations.

Similar to academic research on wrongful conviction, both the provincial inquiries and committee reports are fairly legal in focus. In particular, most inquiry and report recommendations aim to prevent wrongful conviction by tightening legal procedures with regards to police and prosecutorial conduct.21 Furthermore, “The Path to Justice” (2011:iv) illustrates the idea that wrongful convictions are inevitable “mistakes”: The opening line reads, “No criminal justice system is, or can be, perfect”. Whether these inquiries and reports incorporate the more systemic issues surrounding wrongful conviction is debatable. For example, Martin (2002:848) argues that scholars have learned that “there are significant systemic factors which contribute to wrongful conviction” such as tunnel vision and community pressure to convict. Several inquiries have also noted these causes. However, these inquiries do not clearly identify the common target of such tunnel vision – i.e. marginalized individuals. In turn, recommendations do not focus on achieving more legal equality for such individuals. Similarly, systemic racism was recognized in the Royal Commission on the Donald Marshall, Jr.,

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21 The 2011 “Path to Justice” report synthesizes repeated recommendations from commissions of inquiry. Some examples of the emphasis on tightening police and prosecutorial procedures may include: “Police should be encouraged to videotape interviews with witnesses whose testimony may be challenged in court” (p. 29); Police must avoid tunnel vision (p. 30); “Crown policy should be in place to guard against Crown calling inherently unreliable evidence” (p. 35).
Prosecution (1989:17). However, when exploring narratives and reports on wrongful conviction in Canada, Anderson (2011:iv) found that “racialized and Aboriginal experiences are relatively ignored”.

Although wrongful conviction became recognized as a social problem in the early 1990s (Zalman 2011; Bandes 2008; Maidment 2009; Roach 2012b), “the public’s attention is beginning to stray” (Bandes 2008:7; Siegel 2005:1222). For example, when examining public perception, Clow, Blandisi, Ricciardelli and Schuller (2012:1427) found that although the public is sympathetic towards WCIs, “other criminal justice issues [are viewed] as equally or more important than wrongful conviction”. More specifically, fifteen interviews were conducted based on a convenience sample of individuals who visited various coffee shops in Toronto (Clow et al. 2012:1423). Although this is a small sample size, six interviewees were more concerned with capturing the guilty as opposed to the freeing the innocent (Clow et al. 2012:1426). Public attention towards wrongful conviction was diminished in favor of another issue. In fact, one participant in Clow et al.’s (2012:1426) study claimed that the criminal justice system has bigger problems than wrongful conviction.

Aside from the general public, social problems may also garner attention from organizational sponsors, or “established sectors of the social problems industry” (Loseke 2011:122; Best and Harris 2012). Claims-makers need organizational sponsors in order to maintain audience attention and push for public policy change (Best and Harris 2012). Organizational sponsors can draw more permanent attention towards the social problem and maintain the expertise to follow a policy through the process (Loseke 2011:122). The Association in the Defence of the Wrongly Convicted (AIDWYC) is a non-profit organization “dedicated to identifying, advocating for, and exonerating individuals of a crime that they did not
commit and to preventing such injustices in the future” (AIDWYC 2015). Several innocence projects across Canada are also dedicated to investigating potential wrongful convictions. Most of these are run through Canadian law schools or universities and enlist student volunteers, such as the University of British Columbia (UBC) Innocent Project and Innocence McGill.

Despite the benefits that AIDWYC has brought in terms of problem recognition and support for WCIs, the association is very limited in its abilities to foster policy change given its minimal resources in terms of time and money. The association can only afford to assist with a few cases at a time, most of which is pro-bono work. Similarly, university-affiliated innocence projects have a high turnover rate as students move through academia. This may negatively affect casework since new students have to be trained and old students may discontinue their assistance upon graduation. Additionally, these advocacy groups only focus on moving cases through the legal process and therefore do not evaluate the media’s role in the depiction of wrongful conviction, unlike the current study.

2.4 The Current Study

The purpose of the current study is to explore how wrongful conviction has been constructed in Canadian news media. Although previous research provides points of comparison between the current study and the media’s portrayal of wrongful conviction, limited research has been completed on Canadian news media specifically. In fact, there is relatively little research on wrongful conviction in Canada compared to the United States (Bell, Clow and Ricciardelli 2008; Denov and Campbell 2005). Also, academic research and public inquiries on wrongful conviction are usually geared towards specific cases. This study aims to fill these gaps by
focusing on wrongful conviction as a phenomenon, and not how specific cases have been constructed. However, by examining patterns in news reporting, the current research is also able to identify the frequency of news articles which center on cases. Instead of analyzing the media’s role in a specific wrongful conviction case, the current study examines whether the problem is typically defined using cases, if certain cases are represented in media coverage more than others, and if these cases are discussed within episodic or thematic news frames. This is important because how wrongful conviction is constructed may affect how it is problematized and perceived.

Additionally, existing case studies on wrongful conviction often analyze the causes or factors which contributed to the conviction after it has already been remedied. Instead, the current study captures cases at any stage of the criminal justice process, including individuals whose convictions have not been overturned, and branches out from a sole focus on the causes and factors of wrongful conviction; The social constructionist approach to social problems has delineated three other aspects alongside how cause is constructed – namely, the construction of grounds, wrongfully convicted individuals (WCI), and solutions.

In order to address these gaps, the research question guiding the current study is:

How is wrongful conviction constructed in Canadian news media? More specifically, how are the grounds, causes, wrongfully convicted individuals (WCI), and solutions to wrongful conviction constructed throughout the coverage?
2.5 Conclusion

To summarize, this chapter began by outlining the theoretical approach used in the current study: a constructionist approach to social problems. Next, an overview of the literature was presented, with a focus on the media, academic literature and policy responses. Gaps in the literature were identified to provide the context for the research question of the current study. In chapter three, the methods used to address this research question are outlined.
CHAPTER 3: DATA AND METHODS

3.1 Introduction

This chapter outlines the data, sample, analytic strategy and key measures used to examine the construction of wrongful conviction in Canadian news media. It begins with an explanation of the methods used to collect the data followed by an overview of the resulting sample. This chapter then discusses two main analytic tools used to analyze the depiction of wrongful conviction in the coverage: thematic analysis and quantitative content analysis. The methodological limitations are also discussed.

3.2 Data Collection

Archival data were used to examine the construction of wrongful conviction in Canadian news media. In particular, the data were collected from three Canadian newspapers: The Globe and Mail; Toronto Star; and National Post. All three are English-language newspapers which are published seven days per week in Toronto, Ontario. They each have high weekly circulation rates, falling in the top 10 of 25 Canadian newspapers (The Sixth Estate 2012). The Globe and Mail is a national newspaper that caters to “elite audiences” and emphasizes business, politics, and economics. The Toronto Star is considered to be more left wing than the Globe and Mail (O’Grady, Parnaby, and Schikschneit, 2010:57), whereas the National Post is considered to be more right-wing than the Toronto Star (The Sixth Estate, 2012). These newspapers therefore provided a diverse basis with which to gather the sample. All of these newspaper sources were accessed through the Canadian Newsstand database that was made available through the University of Guelph library website.
The sampling frame consisted of articles published between the years of 2008-2013. This time frame allowed for a recent snapshot of wrongful conviction in Canadian news media. Moreover, this time frame was chosen based on the high number of exonerations occurring in the late 2000s (AIDWYC 2014) which were likely to generate media attention towards wrongful conviction. A six year span was chosen in order to ensure all articles could be examined and managed thoroughly within the scope of the present research.

The data were collected by searching for indicators in newspaper articles (article-based) as opposed to searching for specific cases of wrongful conviction (case-based). This is appropriate since the aim of the current study is to analyze how wrongful conviction is constructed as a phenomenon, rather than how particular cases are portrayed. Also, this method is able to ascertain whether wrongful conviction is a prevalent media topic outside of case-reporting. Lastly, using articles rather than cases as the unit of analysis “acknowledges that the audience may not read all articles related to one case; rather, they may read articles intermittently” (Fairbairn and Dawson 2013:12). Indicators or search terms were used to find news articles on wrongful conviction. These indicators were “wrongful conviction(s)” or “wrongfully convicted” and “miscarriage(s) of justice”. The last indicator was used since it is often made synonymous with “wrongful conviction” in academic literature, despite the fact that the Canadian legal system does not equate the term “miscarriage of justice” with convicting the innocent. Only newspaper articles, as opposed to letters to the editor, feature articles and

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22 During an initial search with a 10 year time frame, Canadian Newsstand generated over 1500 results. This sample size was deemed too large for the scope of the present research at the Master of Art’s level.

23 The Supreme Court of Canada has defined “miscarriage of justice” as any error which deprives the accused of a fair trial according to law (Fanjoy v. The Queen, [1985] 2 SCR 233, 1985). In other words, a conviction may be deemed a miscarriage of justice without any ruling on guilt or innocence; Canadian courts only focus on “beyond a reasonable doubt”.
columns, were included in the sample because they usually contain more consistent news frames (Bates 2011).

The use of the above noted search terms resulted in the collection of a total of 525 news articles published between 2008 and 2013. As recommended by Braun and Clarke (2006), articles were read once during data collection in order to get a general idea of their content and ensure eligibility for inclusion in the data set. Articles were omitted if they did not fit with the specified definition of wrongful conviction. For example, many articles which contained the indicator “miscarriage(s) of justice” did not maintain a conception of innocence. As outlined in chapter one, innocence is central to the adopted definition of wrongful conviction for the present study. Articles did not have to specifically confirm or contest a convicted individual’s innocence in order for them to be included in the sample. However, articles were omitted if they used the term “miscarriage of justice” to refer to a legal technicality (such as due process errors) without a conception of innocence or guilt. Moreover, all of the search terms were used at times to refer to topics completely unrelated to criminal convictions. For example, one article used the term “miscarriage of justice” to emphasize the misapplication of a traffic-related policy. Such articles were also omitted from the sample.

Wrongful conviction was defined as: the current or previous conviction of a person for a crime he or she did not commit, or where at least one individual (including the accused) has speculated an unsafe conviction, or claimed he or she did not commit the crime of which s/he has been convicted.

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3.3 The Sample

The data collection process generated a sample of 280 articles. Table A and B (See Appendices A and B) provide the descriptive statistics and publication information of all news articles in the sample. The majority of articles (216 articles or 77%) contained the phrase “wrongful conviction(s)” or “wrongfully convicted” while fewer (64 articles or 23%) contained “miscarriage(s) of justice”. Many news articles that were originally collected based on the search term “miscarriage(s) of justice” were excluded from the sample because they did not include a conception of innocence. The articles in the sample were distributed fairly evenly among the three newspapers surveyed: specifically, 106 articles were published in the Globe and Mail (38%); 77 articles were published in the National Post (27%); and 97 were published in the Toronto Star (35%).

The year in which the news articles were published was unevenly distributed. Indeed, 100 articles (36%) were printed in 2008; 62 articles (22%) were printed in 2009; 42 articles (15%) were printed in 2010; 37 articles (13%) were printed in 2011; 21 articles (8%) were printed in 2012; and 18 articles (6%) were printed in 2013. The higher rate of news publications on wrongful conviction in 2008 and 2009 may be due to large number of exonerations which occurred around the same time (AIDWYC 2015a). Moreover, the Report of the Inquiry into Pediatric Forensic Pathology in Ontario was released in October 2008. Led by Comissioner Stephen Goudge, the report concluded that Dr. Charles Smith made “serious errors” in over 20 criminal cases while testifying as an expert in forensic pathology and urged the province to explore compensation for those who were wrongfully convicted on the basis of Dr. Smith’s

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25 After the sampling requirements identified in Section 3.2 were applied, the initial collection of 525 articles was reduced to 280 articles.
opinions. The province also announced its plan to investigate over 200 potential wrongful convictions which involved shaken baby syndrome (SBS), which has now been deemed a faulty and outdated science. The increased coverage on wrongful conviction during the earlier years of the study period may therefore be due to the attention raised by this inquiry.

3.4 Analytical Strategy

The current study relied on a mixed methods approach to explore the construction of wrongful conviction in Canadian news media. A quantitative content analysis was conducted to provide descriptive data on key measures that were deemed relevant to the research question, and a thematic analysis was conducted to identify themes and patterns in the depiction of the problem. Both of these methods were used to collect data on the four focus areas of the current study—grounds, causes, wrongfully convicted individuals (WCIs) and solutions. Information was collected using two coding sheets: one for the thematic analysis and one for the quantitative content analysis (see Appendices C and D). When an article was read, both coding sheets were completed. These coding sheets contained pre-defined categories for data collection that were devised based on previous literature. For example, the “Quantitative Coding Sheet” listed several variables that were based on wrongful conviction research and media studies. Similarly, the “Qualitative Coding Sheet” contained headings and sub-headings to organize and categorize findings.

Importantly, the quantitative content and thematic analyses were used in tandem and augmented each other. Themes and patterns that were identified throughout the thematic analysis informed the creation of new variables to code for in the “Quantitative Coding Sheet”. For
example, once it was noted that Dr. Smith was a frequent topic of discussion, a variable was
added to capture whether each article discussed the Smith controversy. Qualitative findings
therefore informed the quantitative content analysis. Additionally, the thematic analysis was used
to explain coding choices and contextualize quantitative findings. For example, if the cause of
wrongful conviction was frequently coded as “expert testimony”, quotes were gathered to
explain why this cause was coded, and themes were created to show how expert testimony was
discussed. Therefore, some qualitative findings were organized around the data collection
categories identified in the “Quantitative Coding Sheet”. Although these methods were carried
out simultaneously, they can also be distinguished from each other. A more in-depth explanation
of each of these methods are described below.

**Thematic Analysis**

Thematic analysis involves the identification, analysis and reporting of themes in data
(Braun and Clarke 2006). It is the “study of communication” and includes the “reflexive analysis
of textual documents” so as to make notes of important patterns and apparent biases (Babbie
2001 as cited in Overton 2008:36; Dowler 2006 as cited in O’Grady et al. 2010:58). As Braun
and Clarke (2006:81) note, this method is compatible with constructionist paradigms in the social
sciences. Constructionist researchers have used similar methods and models to study the
construction of social problems. This demonstrates the suitability of thematic analysis to the
present research. Identifying patterns and themes throughout the coverage satisfies one of the key
research objectives of the current study – namely, to report on trends in how news media depicts
wrongful conviction.

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26 For example, Loseke (2012), Wondemaghen (2014) and Schinke et. al, 2013 have used thematic or content
analyses to examine the construction of social problems.
The current study is exploratory in nature given the lack of previous research on wrongful conviction in Canadian news media. However, this research is not solely inductive; the theoretical framework, literature review, and areas of focus (i.e. grounds, causes, WCIIs, and solutions) have guided the thematic analysis. Themes were identified if they captured “something important about the data in relation to the research question” (Braun and Clarke 2006:82). Moreover, findings were used to explain and describe coding choices from the quantitative content analysis. Therefore, the quantitative analysis influenced the collection and organization of qualitative data. Although thematic analyses are rarely undertaken in a linear, straight-forward fashion (Palys and Atchinson 2013), a rough overview of the steps taken in the current study is provided below.

The “Qualitative Coding Sheet” was used as a tool to begin the thematic analysis. It was semi-structured, with a large section dedicated to any notes relating to the depiction of wrongful conviction in the coverage (See Appendix C).27 A “Qualitative Coding Sheet” was completed or information was added to it each time an article was read. Each article was examined multiple times since observations can occur instantly or later throughout the analytical process. This is what Braun and Clarke (2006:87) refer to as data familiarization. As patterns emerged, common observations were recorded.

After all observations were taken, codes were grouped together into themes, or “some level of patterned response or meaning within the data set” (Braun and Clarke 2006:82). The purpose of the current analysis was not to identify the prevalence of pre-determined themes, but

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27 Although a large section is left open for general notes, the “Qualitative Coding Sheet” also contains five other sections which correspond to questions listed in the “Codebook” (See Appendices C and E). These questions were placed in the “Qualitative Coding Sheet” because the “Quantitative Coding Sheet” did not leave any room for notes or observations. Instead, all qualitative data was recorded on the same sheet even if it was used to inform coding choices for the quantitative content analysis.
rather to provide initial trends as to how grounds, causes, WCIs and solutions were discussed throughout the coverage. Braun and Clarke (2006:82) argue that the “‘keyness’ of a theme is not necessarily dependent on quantifiable measures, but rather on whether it captures something important in relation to the research question”. For the current study, themes were created based on their prevalence, their relevancy to the four focus areas, and whether they spoke to claims made in academic literature (Braun and Clarke 2006:88). Furthermore, patterns and trends identified through the thematic analysis were used to inform or explain the coding choices for the quantitative content analysis.

**Quantitative Content Analysis**

Similar to thematic analysis, content analysis is another method used to identify patterns across data (Wilkinson 2000 as cited in Braun and Clarke 2006:83). However, content analysis “tends to focus at a more micro level, often provides frequency counts and allows for quantitative analyses of initially qualitative data” (Braun and Clarke 2006:83). According to Rose, Spinks and Canhoto (2015:117), quantitative content analysis “involves the classification of parts of a text through a structured, systematic coding scheme from which conclusions can be drawn”. These classifications describe features of the data that have been deemed relevant to the research question (Rose et al. 2015).

The quantitative content analysis began with the identification of relevant data to collect from the coverage (Rose et al. 2015). The data collected for Overton’s (2008) research on wrongful conviction and entertainment movies largely shaped the data collection categories for the current study. However, other information was also deemed relevant based on the literature review, theoretical frame and research objectives. More specifically, information was collected
on: the news source and article; WCI(s)/their case; the causes of wrongful conviction; and solutions and recommendations for preventing or reacting them.

A coding scheme was then developed in order to collect relevant data under these categories (See “Quantitative Coding Sheet” and “Quantitative Codebook” in Appendices D and E). One coding sheet was completed per article. A “Coding Manual” was also created in order to explicitly demonstrate how terms and variables were operationalized (see Appendix F). This initial coding scheme was first piloted on five randomly selected articles. If any variables were difficult to code, the meaning and definition of terms were more explicitly defined. Not all of the articles contained the specific information needed in order to answer certain questions on the coding sheet, and so the option of “Unidentified” was created. Moreover, some questions were coded as “Not Applicable” if they were inappropriate for the news article (ex. if a news article did not mention a specific wrongful conviction case or WCI, then questions about cases/individuals were coded as “Not Applicable”).

Although data collection categories were chosen based on previous literature, new variables were also created throughout the analytical process. Patterns or trends identified through the thematic analysis were quantified into variables and subsequently coded for in each article by adding them to the coding sheet. The coding scheme was therefore developed both deductively and inductively. Similar to thematic analysis, quantitative content analysis can be reflexive (Rose et al. 2015). This is beneficial for the internal validity of the present study since the analytical process was not limited to the findings of previous research, and instead was able to report on any aspect deemed relevant to the construction of wrongful conviction in the coverage. On the other hand, the deductive approach allowed for measurable outputs which can
be compared to previous studies and may be used as a basis for future research. Statistical Packages for the Social Sciences (SPSS) Version 22 was used to generate descriptive statistics.

**Key Measures**

Since the current study is exploratory and reflexive, key measures were constructed through a close examination of the quantitative and qualitative findings after data collection. These key measures are identified and explained below in terms of their relevancy to each focus area (grounds, causes, WCIs, and solutions):

**Constructing the Grounds of Wrongful Conviction.** Claims-makers construct the grounds of a social problem condition in order to define its parameters (Lowney 2008:341). This includes the definition of the problem, the harm it creates and the extent of this harm (Loseke 2011:68). Several key measures were constructed to provide information on the grounds of wrongful conviction.

**Most cited source of information.** The definition of wrongful conviction may be shaped by the individual or group who is given authority to speak about the problem in the news media (Ericson, Baranek & Chan 1991 as cited in Fairbairn and Dawson 2013:8). This measure was constructed by identifying which source had the highest number of direct quotes and/or paraphrases in the article.\(^{28}\) The most cited source of information was recorded as follows: police or prosecution; defense council (not affiliated with AIDWYC in the article); judges at any level; WCI or their family/friends; wrongful conviction advocacy group (ex. AIDWYC; Innocent Projects); forensic expert; attorney general at any level, their spokespeople or politician; legal

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\(^{28}\) An example of a direct quote which was counted as a citation of a source is: The Crown Attorney in the case commented, “This case will go down in history”. An example of paraphrasing which was counted as a citation of a source is: The Crown Attorney referred to this case as one which will go down in history.
academic or Criminal Lawyers Association; only the news writer (no direct quotes or paraphrases from any other source); and other.\(^9\)

*Mention of at least one wrongful conviction case/WCI.* Loseke (2011:124) argues that the use of particular cases may capture audience attention about a problem. Claims-makers may “personalize” the problem through the use of narratives or stories which demonstrate how specific people were involved or affected by the problem. As such, articles were coded as 1 if they mentioned at least one wrongful conviction case/individual and coded as 0 if they did not. If case-reporting is common in the coverage, wrongful conviction may not be defined outside of such cases.

*Total number of wrongly convicted individual(s)/case(s) mentioned per article.* The ability to construct a condition as widespread may motivate audience members to respond (Loseke and Best 2003; Loseke 2011). Claims-makers are able to stress the prevalence of the problem by showcasing multiple cases of wrongful conviction. Calculating the frequency of individual(s)/case(s) mentioned in each article will shed light on whether it is common to refer to more than one case.

*Specific case/WCI mentioned.* The name of the WCI most discussed\(^{30}\) in each article was recorded (if the article mentioned at least one case). The frequent use of the same case(s) may shape the parameters and depiction of the problem. The name of the individual/case mentioned was recorded with an open-ended question and was later assigned nominal values.

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\(^9\) More values were originally created for the most cited source of information. Once the coding process was completed, these values were recoded by grouping similar sources together and merging low frequency sources into the category of “Other”.

\(^{30}\) If an article mentioned more than one wrongfully convicted individual, only the name of the individual who was most referred to was recorded. If all individual(s)/cases(s) were referred to equally, the individual/case mentioned first would be recorded.
Type of news frame. The type of news frame (episodic or thematic) most used throughout the coverage may affect the audience’s understanding of, and reaction to, the problem (Iyengar and Simon 1993:369). Episodic news frames (coded as 0) limit the parameters of the social problem condition since its definition is closely connected to the specific event or case in question (Benjamin 2007). Audience members settle on causes and solutions which “fit” the observed problem (Benjamin 2007). Thematic frames (coded as 1) on the other hand, identify “shortcomings at the community or systems level [which] have contributed to the problem” (Benjamin 2007). This may influence the audience to think about the problem more contextually. For example, they may advocate for solutions which are geared towards broader social systems or structures.

Stage of the criminal justice process. If news articles reported on a specific wrongful conviction case, the stage of the criminal justice process which was mentioned or discussed was recorded. Wrongful conviction cases were classified into four different stages of the criminal justice process: verdict of trial within 60 days of conviction or article is discussing sentencing (coded as 0); any plans to appeal or campaign for innocence after 60 days of verdict but before the verdict of appeal is handed down (coded as 1); remedy stage whereby the conviction is appealed at least once but with further pursuit by Crown or appellant (i.e. new trial, re-trial or further appeal planned) (coded as 2); and post-remedy where no further pursuit by Crown or appellant is planned in terms of the court process (i.e. acquitted, exonerated or factually innocent). This measure provides information related to when the problem is defined since the stage when wrongful convictions receive the most media attention may shape how the problem is constructed and perceived.
Offence for which individual was wrongly convicted. The offence was recorded if the article mentioned a specific wrongful conviction case. Most known or contentious wrongful conviction cases involve what may be considered as serious offences (Jenkins 2013a: 340; Roach 2012b: 1471). If the coverage tends to report on such offences, this may limit the definition of the problem and may in turn affect how it is addressed. Articles were coded as 0 for murder, 1 for manslaughter, 2 for any counts of assault prosecuted as indictable, 3 for a summary offence, 4 for infanticide and 77 for any other offence.

Dr. Charles Smith and/or shaken baby syndrome (SBS). Dr. Charles Smith and/or his questioned testimonies of SBS were noted as frequent topics of discussion throughout the coverage. Articles which mentioned Smith or SBS were coded as 1 and articles which did not were coded as 0. This measure demonstrates how much of the construction of wrongful conviction is connected to Smith and/or debated concepts in forensic pathology.

Nature of the problem. The scholarly tradition of attempting to calculate the system’s error rate of wrongful conviction assumes that they are scientifically expected (Overton 2008:14). Whether wrongful conviction was depicted as natural or expected (coded as 0) was therefore used as a key measure of the construction of the problem. For example, articles were coded as 0 if the news article contained claims about the inherency of wrongful conviction.

Constructing WCIs as victims. Supplementary to qualitative findings, the number of times the coverage used the word “victim” to describe WCIs was recorded. This key measure provides insight into whether such individuals were constructed as the victim of harm caused by the social problem.
Hardships on WCI’s family. Also related to the harms caused by the problem, this measure captures the hardships placed on the families of WCI’s. For example, articles mentioned financial and emotional hardships experienced by family or friends due to their loved one’s wrongful conviction.

Extent of the problem. Claims-makers will often refer to the extent or degree of the problem when constructing the grounds of the condition (Loseke 2011:341). Encouraging audience members to evaluate the condition as widespread is essential for their participation in the claims-making campaign (Loseke 2011:67). News articles which depicted wrongful conviction as frequent or common were coded as 1. This includes claiming that there is or have been many cases of wrongful conviction. On the other hand, articles containing comments about the rareness of the problem were coded as 0. For example, the extent of the problem was coded as 0 if wrongful conviction was described as uncommon.

Constructing Cause: Typifying the Problem. Alongside constructing the grounds of a social problem condition, claims-makers also give meaning to the problem through diagnostic frames. As discussed in the literature review, diagnostic frames identify causes, forces and factors of the condition within larger typifications of the problem (Loseke 2011:73). For example, a school shooting may be typified as an individual problem caused by the innate or villain-like qualities of the shooter or, conversely, as a symptom of a larger societal ill. Diagnostic frames also identify who or what has caused the problem. The following key measures capture information related to cause and blame.

Causal interpretation of wrongful conviction. News articles did not have to contain a direct inference of causation; Forces or factors which were analyzed as connected or correlated
to the problem were also recorded as a causal interpretation. Each article was coded 0 if there
was no causal interpretation of wrongful conviction was offered, coded as 1 if one was offered,
or coded as 2 if more than one was offered. This measure demonstrates claims-making
tendencies when constructing the problem. For example, if it is most common for more than one
causal interpretation to be made, this may demonstrate the construction of the condition as a
multidimensional problem.

_Cause, force or factor identified._ The specific causes identified in each article were
recorded as follows: witness misidentification or testimony/jail house informants/circumstantial
evidence; non-disclosure by the Crown or police; false or coerced confession; expert testimony;
inadequate defense work or inadequate legal aid funding; bias towards the offender or tunnel
vision; public outcry/pressure for conviction or sensationalism of crime; invalidated or improper
use of forensic science; judicial misconduct; police misconduct; prosecutorial misconduct; and
other. These causes were based primarily on the coding scheme used in Overton’s (2008) study
on wrongful conviction in entertainment movies.

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31 A list of 25 values was originally created for this key measure. If a cause was not listed among the pre-determined
values, it was then added throughout the coding process and subsequently coded for in all articles (starting from the
first sampling unit). Once the coding process was completed, this measure recoded by grouping similar causes
together. The aim of the present study is to provide general information related to how the problem is constructed.
Recoding was desirable because the use of broader, grouped values allowed for outputs which display which areas
or sectors were frequently constructed as part of the problem (as opposed to several, more narrow values which may
dilute a more general analysis of where the problem lies). The thematic analysis influenced which values would be
grouped together since certain causes were either used interchangeably in articles (ex. “witness misidentification”
was often used synonymously with “circumstantial evidence”) or were analyzed as connected to each other (ex.
“sensationalism of the crime” was often mentioned alongside “public outcry or pressure for conviction” which made
it difficult to code for these values separately). The literature reviewed in chapter two also influenced which values
would be grouped together. For example, “racism”, “tunnel vision” and “bias other than racism” were recoded into
one measure since bias was found to be a common element in widely-adopted definitions of tunnel vision (ex.
Commissioner Kaufman’s (1998) definition of tunnel vision in his inquiry report on the wrongful conviction of Guy
Paul Morin). This recoding process resulted in the 12 values listed above.
Assigning blame. The thematic analysis was used to collect data on who or what was implicated in causing the problem. Assigning blame or fault for the social problem may motivate audience members to respond by condemning individuals or institutions (Loseke, 2011:96).

Problem type. Three common typifications of the social problem condition tend to be used by claims-makers (Loseke 2011): A) a problem of social structure (coded as 0); B) a problem of social forces (coded as 1); C) an individual problem (coded as 2). Since media workers are frequently secondary claims-makers, social problems are rarely framed as one particular type of problem. This made it difficult to reliably identify whether wrongful conviction had been constructed as an individual or social problem. Therefore, articles that included multiple typifications were coded as 3 and those without claims about problem type were coded as 88 (“Unidentified”). Also, any observations about problem type were included during the thematic analysis and quotes were chosen to explain coding choices (Refer to Appendix F for coding examples).

Constructing Wrongfully Convicted Individuals (WCI). Claims-making also involves the construction of people who are involved in the social problem (Loseke 2011). Given the research focus on WCIIs outlined in chapter two, the following key measures capture information about those who have been wrongly convicted. If an article mentioned at least one specific wrongful conviction case, the following information was collected on the case/individual most referred to in each article:

Overall language/tone used towards WCI. Whether the WCI was discussed in positive connotations (coded as 1), negative connotations (coded as 0), both positive and negative (coded as 2), or in neutral connotations (coded as 3) was recorded (Refer to Appendix F). This key
measure relays important information about the portrayal of WCIs as victims. For example, WCIs may not be seen as the innocent victim deserving of sympathy if they are most often discussed in negative connotations that assign guilt.

*Use of the word “innocent” to describe WCIs.* Similar to language/tone, the number of times the coverage used the word “innocent” to describe WCIs was recorded. Constructing individuals as innocent victims is more likely to generate sympathy and compassion among audience members (Christie 1986; Loseke 2011).

*Information about the WCI.* Several measures were devised to capture demographic and personal information about the WCI: their age at time of wrongful conviction; age when at the remedy stage or later of the criminal justice process; sex; race; visible minority status in Canada; social class; highest level of education; history of alcohol or substance use; history of violence in the family; criminal history; mental or intellectual capacity; and their depiction as ‘alternative’ or ‘marginalized’ (Refer to Appendix F).

Some scholars have pointed out that WCIs are often marginalized (ex. Maidment 2009:11; Anderson and Anderson 2009). Gathering information about the demographic and social characteristics of WCIs in the coverage allows for a comparison between claims made in academic research and those made in news media. Moreover, the absence or inclusion of information about WCIs may illuminate what characteristics are important or irrelevant to the construction of WCIs.

*Constructing the Solution to Wrongful Conviction.* Claims-makers construct a solution to the troublesome condition through the use of prognostic frames (Loseke and Best 2003:77).

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32 See Coding Manual attached in Appendix F for a definition of the remedy stage of the criminal justice process.
Prognostic frames include claims about the “right” or “best” solution to the problem, in competition with other claims about what should be done. Claims about solutions may also include assessments of previous social and policy responses to the problem. Moreover, claim-makers use prognostic frames to assign specific people or groups the responsibility to fix the problem (Snow and Benford, 1988 as cited in Loseke 2011:111). The following key measures capture information about how the solution to wrongful conviction was constructed:

**Recommendations made or discussed.** Constructed solutions may be closely connected to the dismissal or approval of previous recommendations. Articles which did not make or mention any recommendations were coded as 0, those which made one were coded as 1, and those which made more than one were coded as 2.

**Recommendations identified.** Recommendations which were made or evaluated in each article were recorded as follows: forensic pathology or expert evidence; use and limitations of evidences; fair, equal or unbiased treatment of accused/WCI; independent review of potential cases of wrongful conviction; rules of appeal (ex. fresh evidence, uses of old evidence or more opportunities to intervene); compensation; acquit or deem factually innocent; accountability; inquiry; review SBS or Smith cases; other. Recommendations were important to record because they highlight claims-makers’ desired outcomes.

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33 Similar to how causes were coded, a list of 32 values was originally created for the recommendations made or discussed. If a recommendation was not listed among the pre-determined values, it was then added throughout the coding process and subsequently coded for in all articles (starting with the first sampling unit). Once the coding process was completed, these measures were recoded by grouping similar recommendations together. Also similar to causal interpretation, there was no need to include several, more narrow values since they may dilute a more general analysis of what should be done to address the problem. Instead, the categories for recommendations were recoded into broader, more encompassing groupings so that the outputs could more easily relay information about which areas or sectors were constructed as important parts of the desired solution. The thematic analysis influenced which values would be grouped together. For example, “fresh evidence”, “use of old evidence”, and “more opportunities to intervene” were all grouped together under the new category of “rules of appeal” because they were often mentioned together in the same article.
Preventative or reactive recommendations. Whether the recommendations made or discussed were preventative or reactive was recorded. More specifically, one measure captured whether one or more recommendations were preventative (i.e. if none were preventative; if one was preventative; if more than one was preventative) while another measure captured recommendations which are more reactive (Refer to Appendix F).

Assigning responsibility to fix the problem. The thematic analysis was used to collect data as to who was assigned responsibility to respond to the problem. Constructing certain individuals or organizations as involved in the solution may affect if and how the problem is addressed.

Importance of being recognized as innocent. Articles which mentioned the importance of clearing the WCI’s name and/or having their innocence publically revealed were coded as 1 and those which did not were coded as 0. This was used as a key measure since it illuminates an important part of the desired solution or remedy to wrongful conviction.

3.5 Limitations of the Analytic Design

Although the current study provides research on an understudied topic, there are limitations inherent in the analytic design. Both thematic and quantitative content analyses involve interpretation, even when examining “manifest content”, and therefore introduce the risk of researcher bias (Rose et al. 2015:124). Ideally, different coders would have been employed in the current study to calculate the percentage of disagreements in coding choices and increase intercoder reliability. Another common limitation of these methods is the risk of “overlooking what is not said in a particular text” (Rose et al., 2015:124). Providing explanations for some
findings may prove to be difficult if the explanation falls outside of the text itself (Rose et al. 2015:125).

3.6 Conclusion

This chapter outlined the methodological and analytical approaches used to assess the construction of wrongful conviction in Canadian news media. The data collection process was reviewed, followed by a description of the sample. Two analytical methods were chosen (thematic analysis and quantitative content analysis) to gather data and identify trends in the construction of wrongful conviction. The next chapter outlines the findings.
CHAPTER 4: RESULTS AND DISCUSSION

4.1 Introduction

This chapter presents relevant findings from the thematic and quantitative content analyses as they relate to the construction of: 1) grounds, including the parameters used to define the problem, the harm it creates, and the extent of this harm; 2) causes of wrongful conviction; 3) wrongfully convicted individuals (WCI); and 4) solutions to wrongful conviction. Key measures were constructed to capture information related to these focus areas. Themes and frequency counts relevant to these key measures are provided and described. Together, these qualitative and quantitative results highlight important patterns and trends in the construction of wrongful conviction. These results are also discussed in the context of the wrongful conviction literature and media studies synthesized in chapter two.

4.2 Constructing Grounds: Definition, Harm, Extent of Harm

As previously discussed, claims-makers construct the grounds of a social problem in order to give the audience the facts or the basic information (Lowney 2008:341). This includes the definition of the problem, the harm it creates and the extent of this harm (Loseke 2011:68). Each of these components are discussed in the following sub-sections. Findings indicate that the problem was defined within limited parameters, that the Dr. Smith controversy brought attention towards the problem, and that wrongful conviction was constructed as unexpected. In addition, the extent of harm was fairly limited to those involved in specific cases of wrongful conviction; WCIs were depicted as the primary victims of severe harm. See Table 1 for frequency counts on measures related to the construction of grounds.
Table 1. Frequency Table for Characteristics of the Construction of Grounds in News Coverage on Wrongful Conviction (N = 280)

<table>
<thead>
<tr>
<th>Most Cited Source of Information</th>
<th>N</th>
<th>%</th>
<th>Mention of at least one WCI/WCC</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>WCI or their family/friends</td>
<td>72</td>
<td>26</td>
<td>No</td>
<td>63</td>
<td>22</td>
</tr>
<tr>
<td>WC advocacy group</td>
<td>49</td>
<td>18</td>
<td>Yes*</td>
<td>217</td>
<td>78</td>
</tr>
<tr>
<td>Defense council (not affiliated with AIDWYC)</td>
<td>29</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judge(s) at any level</td>
<td>29</td>
<td>10</td>
<td>One</td>
<td>162</td>
<td>75</td>
</tr>
<tr>
<td>Journalist Only</td>
<td>29</td>
<td>10</td>
<td>Two</td>
<td>32</td>
<td>15</td>
</tr>
<tr>
<td>AG/MJ or their spokespeople or Politician</td>
<td>20</td>
<td>7</td>
<td>More than two</td>
<td>23</td>
<td>10</td>
</tr>
<tr>
<td>Police or Prosecution</td>
<td>17</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forensic Expert</td>
<td>14</td>
<td>5</td>
<td>Verdict of trial/sentencing</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Legal Academic or CLA</td>
<td>9</td>
<td>3</td>
<td>Post-conviction</td>
<td>68</td>
<td>31</td>
</tr>
<tr>
<td>Other</td>
<td>12</td>
<td>4</td>
<td>Remedy</td>
<td>30</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Post-Rremedy</td>
<td>106</td>
<td>49</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Unidentified</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Type of News Frame</td>
<td>280</td>
<td>100</td>
<td>Stage of the Criminal Justice Process</td>
<td>217</td>
<td>100</td>
</tr>
<tr>
<td>Predominately Episodic</td>
<td>166</td>
<td>59</td>
<td>Verdict of trial/sentencing</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Predominately Thematic</td>
<td>114</td>
<td>41</td>
<td>Post-conviction</td>
<td>68</td>
<td>31</td>
</tr>
<tr>
<td>Dr. Charles Smith Mentioned</td>
<td>280</td>
<td>100</td>
<td>Remedy</td>
<td>30</td>
<td>14</td>
</tr>
<tr>
<td>No</td>
<td>199</td>
<td>71</td>
<td>Unidentified</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Yes</td>
<td>81</td>
<td>29</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nature of WC in the CJS</td>
<td>280</td>
<td>100</td>
<td>Primary Offence for which WCI was Convicted</td>
<td>217</td>
<td>100</td>
</tr>
<tr>
<td>Depicted as natural or expected</td>
<td>20</td>
<td>7</td>
<td>Murder (1st or 2nd degree)</td>
<td>147</td>
<td>68</td>
</tr>
<tr>
<td>Unidentified</td>
<td>260</td>
<td>93</td>
<td>Indictable assault</td>
<td>37</td>
<td>17</td>
</tr>
<tr>
<td>Used the Word “Victim” to Describe WCIs</td>
<td>280</td>
<td>100</td>
<td>Manslaughter</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>No</td>
<td>219</td>
<td>78</td>
<td>Infanticide</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Yes</td>
<td>61</td>
<td>22</td>
<td>Other</td>
<td>12</td>
<td>5</td>
</tr>
<tr>
<td>Extent of WC in CJS</td>
<td>280</td>
<td>100</td>
<td>Unidentified</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Depicted as rare/uncommon</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depicted as frequent/common</td>
<td>40</td>
<td>14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unidentified</td>
<td>237</td>
<td>85</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: Wrongful Conviction (WC); Attorney General/Minister of Justice (AG/MJ); Canadian Lawyers Association (CLA); Criminal Justice System (CJS); Wrongful Conviction Case (WCC)

* Out of 66 different WCI/WCCs who were reported on at least once, 34 WCI/WCC were the subject of only one article each. Five WCI/WCCs were reported on in more than 10 articles each.

b Only 217 articles (out of N = 280) were coded for this variable because articles which did not mention a specific WCI/WCC (n = 63) were deemed “Not Applicable”. If more than one WCI/WCC was mentioned in an article, the WCI/WCC most referred to was used as the subject of coding.
Before examining how wrongful conviction was defined, it is first important to identify the most prominent claims-makers throughout the coverage. As previously discussed, media workers are usually secondary claims-makers who translate and package claims made by primary claims-makers (Loseke 2011:41). Therefore, the most cited source of information throughout the coverage is an important indicator of which claims-makers had power in shaping the story told by journalists. The most cited source of information was the WCI or their family or friends (26% of the coverage), followed by wrongful conviction advocacy groups (18%) (see Table 1). Defense counsel and judges were cited throughout the coverage equally (10% each) alongside articles which did not cite any source (10%). Although media workers have the final say in terms of what story is told, these findings demonstrate how WCIs and advocacy groups have played a large role in shaping the presentation of wrongful conviction in newspaper coverage.

Defining Wrongful Conviction

The Parameters of the Problem. Claims-makers defined wrongful conviction within limited parameters. This is exemplified through four findings from the quantitative content analysis. First, a large majority of news articles mentioned at least one wrongful conviction case/WCI (78% of the coverage). In fact, the average number of cases mentioned per article was one; 75 percent of the 217 articles on at least one case reported solely on one. Moreover, wrongful conviction was largely defined using a handful of cases or examples of the problem. Indeed, more than 10 articles each focused on 5 specific cases/WCIs: Romeo Phillion (16 articles); Ivan Henry (15 articles); William Mullins-Johnson (15 articles); Stephen Truscott (14 articles); Anthony Hanemaayer (11 articles).
The frequent use of wrongful conviction cases demonstrates the use of typifying stories. Typifying stories give examples of the problem in order to specify the condition at hand without providing an explicit definition (Loseke 2011:68). These stories narrowly focus on how one or a few individuals have been victimized by the social problem (Lowney 2008:341). Definitions of wrongful conviction were not explicitly given throughout the coverage, and so the parameters of the problem were limited to these cases or examples. Audience members may view these cases as the typical or common experience of wrongful conviction. Some news articles even referred to cases as “classic” (Article 164), “typical” (Article 157) or the “textbook example” (Article 223) of wrongful conviction. This demonstrates how the social problem was implicitly defined within these typifying stories. Similarly, much of academic literature has used case studies that “narrate stories of wrongful conviction” (Leo 2005:207 as cited in Zalman, Smith and Kiger 2008:73; Zalman 2011:1501).

Second, claims-makers were less likely to situate these cases in larger patterns of wrongful conviction since most news articles were framed episodically (59%) as opposed to thematically (41%) (see Table 1). Episodic news coverage provides a “distorted portrayal of recurring issues as unrelated events” (Iyengar 1991 as cited in Benjamin 2007). This limited the parameters of the problem since audience members may be encouraged to settle on causes and solutions that “fit” the observed problem as opposed to more general patterns related to wrongful conviction (Benjamin 2007). However, a significant portion of the sample used thematic frames to define wrongful conviction. This is noteworthy since it differs from how crime-related topics are usually framed in the media (ex. Iyengar 1991; Coleman and Thorson 2002; Fairbairn and Dawson 2013). As will be discussed below, the use of thematic frames is likely due to the focus
on the Dr. Smith controversy; several cases where Dr. Smith provided expert testimony were typically linked together by the failings the forensic pathology system.

Third, a number of variables were recorded only for articles which mentioned at least one specific WCI/case. If more than one individual/case was mentioned, the one most referred to was used as the subject of coding. These variables also relay important information about the definition or character of wrongful conviction throughout the coverage. More specifically, the stage of the criminal justice process that the article was commenting on shapes the parameters of the problem and highlights when a case is seen as wrongful conviction. The majority of articles on a WCI/case reported on the post-remedy stage of the criminal justice process (49%) (see Table 1). This includes cases where no further pursuit by the Crown or appellant is planned in terms of the court process. When combining this stage with the remedy stage (e.g. new trial, retrial or further appeal planned), the last two stages account for 63 percent of articles. Only 33 percent commented on the post-conviction stage or earlier, making it much less common for the coverage to report on trial verdicts or plans to appeal before the case has been revisited in court. Wrongful conviction cases which have yet to reach the remedy stage were therefore rarely included in the depiction of wrongful conviction throughout the coverage.

The tendency to report on the later stages of the court process may be due to newsworthiness and the tendency for news media to celebrate convictions (Jenkins 2013a:332,337). The newsworthiness of celebrating convictions may influence journalists to downplay or exclude claims of innocence when reporting on the verdict of trial. However, once WCIs have established a campaign of their innocence with the support of advocacy groups, journalists may be more inclined to cover the story. This is also related to the source of information on which journalists rely. Specifically, statements from the police or prosecution
during the beginning stages of the criminal justice process may be less likely to be supportive of the WCI’s innocence (Jenkins 2013a:341).

Fourth, in terms of the primary offence of which the individual was wrongly convicted, the majority of articles commented on murder, manslaughter or infanticide cases (74%), followed by 17 percent of the coverage on indictable assault cases. Table 1 indicates that only five percent of the coverage focused on cases where the individual was convicted of any other offence, and only four percent did not identify the offence. This finding also limited the parameters of the problem. Although individuals may be wrongly convicted of any offence, the problem was only defined using offences that are considered “serious”. This may also be due to newsworthiness whereby sensational and high-profile offences are more likely to grab the attention of journalists and audience members (Jenkins 2013a; Overton 2008; Roach 2012b). The focus on murder and manslaughter could also be linked to the fact that advocacy groups were the second most cited source of information throughout the coverage. Advocacy groups, such as AIDWYC, only work with serious offences cases (AIDWYC 2015b).

When combining these results, the depiction of wrongful conviction was limited to high-profile cases which have already reached the remedy stage or later. Moreover, the reliance on using one case at a time to tell the story of wrongful conviction in episodic frames highlights a lack of connections between such cases and broader patterns related to the problem. However, there was a focusing event which brought attention to wrongful conviction outside of these specific cases: the controversy surrounding Dr. Charles Smith’s expert testimonies, including those which were based on shaken baby syndrome.
Focusing in on the Problem through the Dr. Charles Smith Controversy. Focusing events are sudden, dramatic, attention-grabbing events that draw attention to a problem (Birkland 1998:53). The fact that 81 news articles (29% of the coverage) mentioned Dr. Smith shows that he, and the cases in which he was involved, were important in claims-making about wrongful conviction and likely affected the depiction or definition of the problem during the study period (see Table 1). This connection between the Dr. Smith controversy and wrongful conviction may be seen as a form of piggy-backing. Piggy-backing is when “a new problem is constructed as a different instance of an already existing problem” (Loseke 2011:74; Lowney 2008). The controversy surrounding Dr. Charles Smith and his expert testimony served as a different instance of the already existing problem of wrongful conviction. Therefore, the focus on Dr. Smith opened another dialogue for wrongful conviction.

Constructing the Nature of the Problem: Wrongful Convictions as Unexpected. Defining social problems also involves constructing the character or nature of the condition (Loseke and Best 2003). By combining quantitative and qualitative data, it was found that wrongful conviction was defined as unexpected. Contrary to academic literature that contends wrongful conviction is inevitable (ex. Marquis and Scalia 2006; Ramsey and Frank 1998 as cited in Gould and Leo 2010; Zalman, Smith and Kiger 2008), only seven percent of the coverage depicted wrongful conviction as natural or expected (see Table 1). In fact, wrongful conviction was depicted as an unexpected or as a surprising occurrence. For example, one journalist asked, “How could the authorities, whom [Truscott’s mother had] always respected, pin this horror on him?” (Article 271). Similarly, Ms. De Berk commented that “in the beginning, when it all starts, you don’t believe it… so after you’re first in prison, you think this is such a mistake and
they’re going to find that out’ (Article 102). These excerpts demonstrate how claims-makers were surprised that the criminal justice system erred.

*Constructing Harm*

As previously mentioned, constructing the grounds of a social problem includes specifying the harm it causes to victims and the extent of this harm (Loseke 2011:68; Lowney 2008:333). Motivational frames appealing to both logic and emotion were used throughout the coverage to construct the social problem condition as intolerable (Loseke and Best 2003:77; Loseke 2011:76). First, claims-makers used sensational narratives to identify WCIs as the primary victim of severe harm. This harm was depicted as permanent and included the loss of life-time opportunities and stigmatization. Second, claims-makers also appealed to logic by constructing wrongful conviction as a violation of the cultural themes of family and justice.

**WCIs as the Primary Victim of Extreme Harm.** Claims-making strategies were used to construct WCIs as the primary victims of the social problem who suffered severe harm. This was typically accomplished by using narratives to “personalize the victim” (Loseke 2011:95). Several news articles described the lives of specific WCIs pre, during and post-conviction, demonstrating how they were affected by it. For example, one article tells the story of Sherry Sherret-Robinson’s wrongful conviction and opens with, “Sherret-Robinson’s nightmare began on Jan. 22, 1996, when she awoke to find Joshua face-down in his playpen, stiff and blue. Sobbing, she called 911” (Article 123). The article subsequently describes vivid details in her arrest, conviction and remedy. How she was harmed after she was released is also described as she had “difficulty in finding employment because of her criminal record [and] suffers from post-traumatic stress disorder because of her ordeal” (Article 123). The fact that WCIs and the harm...
done to them is often made the subject of these stories identifies them as the primary victim of the problem. Indeed, 22 percent of news articles used the word “victim” to describe WCIs (see Table 1), which is a conservative measure given that it does not capture every portrayal of victimization. Claims-makers constructed WCIs as the primary victim of the problem without necessarily using the specific term “victim”.

In addition to narrative (and usually within them), claims-makers used strong and sensational language that appealed to emotion to demonstrate the severity of harm faced by WCIs. A common claims-making strategy is to construct the grounds of the problem (i.e. wrongful conviction) as having horrifying or extreme consequences for the victim, which is usually accomplished through the use of strong and vivid language (McCormick 2010; Loseke and Best 2003). This is intended to motivate audience members to care about the social problem. The following excerpts illustrate how strong language was used to construct the extreme consequences of wrongful conviction on WCIs, thus identifying them as the victim of severe harm:

‘My nightmare is coming to an end and I'm waking up,’ the petite, trembling woman told reporters outside the courthouse… ‘Try having your heart ripped out and having someone squeeze it in front of your face’ (Article 66).

‘Each day I opened my eyes and I thought I’d wake up in my own bed, it was just bad nightmare,’ [Anthony Hanemaayer] says. Except that every time I woke up, I seen bars.’ (Article 222)

Claims-makers discussed three ways in which WCIs were negatively affected by their conviction: the loss of life-time opportunities, the permanency of their negative experiences and stigmatization. First, the number of years in which WCIs were incarcerated affected their ability
to achieve life-time goals or opportunities. For example, Stephen Truscott was depicted as catching up on boyish activities by riding a motorcycle since he lost his youth behind bars:

So far this spring he has found the energy to take the bike out for a spin three times, an exhilarating jolt of freedom for the grandfather who still chafes at the memory of spending his teenage years behind bars. ‘You get out there and feel free,’ Truscott says, a hint of that boyish twinkle in his eyes (Article 33).

Similarly, Sherret-Robinson “lost [her] schooling and everything because of [her conviction]” (Article 184). Moreover, the harm faced by such individuals does not end upon release. The loss of lifetime opportunities is part of a broader theme of how the lives of WCIs will be forever changed, demonstrating the permanency of harm. For example:

Even should he be exonerated, Mr. Phillion said he does not expect to ever truly leave his prison ordeal behind him. He said a friend… with whom he shares an apartment, occasionally overhears Mr. Phillion rouse from his sleep and utter phrases such as: ‘I’m going back to my cell now.’ (Article 276).

Anthony Hanemaayer was also depicted as the victim of permanent harm since “he can’t get his life back…. As a child, his mother Wilma [said], Hanemaayer was ‘kind of an outgoing type (who) liked to go out lots… he was the life of the party’” (Article 222). These joyful memories are contrasted to his more recent character traits:

Today, he is a soft-spoken man who says he shut the world out after his arrest at age 19. ‘I was happy back then,’ he says quietly. ‘I had a lot of plans for my life, to have a family, to live my life the way that I remembered before the charge. Happy, easygoing, but 1987…. That was pretty much shattered.’ (Article 222).

This theme broadens the depiction of harm since the negative effects of wrongful conviction were depicted as continual even after release. Similarly, based on their review of six cases of
wrongful conviction, Anderson and Anderson (2009) stress how the lives of WCIs will never be the same.

Last, WCIs were also harmed by their guilty label. These individuals were victimized by the stigma of guilt and were affected by the fact that their innocence was not recognized. This is similar to academic literature on wrongful conviction, whereby Jenkin’s (2013b) discusses the negative effects of stigmatization on WCIs. For example, one news article stressed “the hardships [William Mullins-Johnson] endured in prison, labeled a sex offender and a child killer” (Article 87). All of the above harms are similar to hardships identified in academic literature on wrongful conviction (ex. Jenkin’s (2013b) findings of stigmatization; Anderson and Anderson’s (2009) findings on the permanency of harm). However, other victims of wrongful conviction were also identified throughout the coverage.

**Constructing Harm to Families and the Administration of Justice.** Motivational frames explain why the condition is problematic (Loseke and Best 2003; Sutton 2015). Alongside an appeal to emotion, claims-makers can encourage audience members to support their cause by constructing the problem as a violation of one or more cultural themes which are beliefs about how the world should work (Lowney 1999; Loseke 2011). Throughout the coverage, wrongful conviction was depicted as harmful to familial relationships and to fairness and justice. Roughly one quarter of news articles mentioned hardships endured by the family of WCIs, suggesting that families are also harmed by the social problem (see Table 1). Similarly, Jenkins (2013b:120) has also identified family members as secondary victims of wrongful conviction who experienced “broken relationships and prolonged trauma” as a result of their loved one’s incarceration. For example, William Mullins-Johnson said that his wrongful conviction “destroyed [his] family [including his] brother’s relationship with [him], and [his] niece that’s still living and [his]
nephew that’s still living” (Article 270). He explains that his family now “hates” him because of what Dr. Smith did to him (Article 270). Ivan Henry’s daughter made a similar comment:

‘We’ve waited a long time. We just want to be a family again.’ Ms. Henry said she and her sister, Kari, were only nine and seven years old when their father was arrested on July 29th, 1982. He has been in custody ever since. She said it was tough growing up with a father who was a convicted sex offender (Article 178).

In addition to the familial harms caused by wrongful conviction, claims-makers also constructed the problem as a violation of justice. Wrongful conviction was depicted as unjust since the real or actual offender escaped punishment while innocent individuals were incarcerated. For example, journalists expressed concern that “real killers are walking free” (Article 253) and claimed that “there is no justice when [these] real killer[s] remain” unpunished (Article 18). Similarly, claims-makers debated that “…it’s hard to know whether to be more irate that wrongfully convicted men and woman are in prison or that murderers are walking free” (Article 17). This finding is consistent with the media’s tendency to celebrate convictions (Jenkins 2013a). Capturing the guilty continued to be a relevant concern in Canadian news media even when reporting on innocence. Moreover, scholars have long weighed these two objectives by arguing how many people should escape punishment for the price of one wrongful conviction, similar to the Blackstone ratio (Lauden 2006:63).

Constructing the Extent of Harm

The last aspect of constructing grounds involves the extent of the harm caused by the social problem condition. Loseke (2011:69) contends that the number of people constructed as harmed by a condition will depend on how the parameters are constructed and how harm is defined. The more included in the definition of the condition and in the definition of harm, the
more harm will be found. As previously discussed, wrongful conviction was defined within limited parameters and WClIs were identified as the primary victim of harm. Although this harm extended to families and to justice, the extent of harm caused by the problem was fairly limited to the parties associated with specific cases of wrongful conviction (i.e. victim of the crime does not have their offender punished; WCI and their families are harmed). This limited amount of harm may detract from the depiction of the problem as widespread. Moreover, only 14 percent of articles depicted wrongful conviction as frequent or common. The remaining articles either made claims about the rarity of the problem (1%) or did not make any claims about extent (85%). Therefore, wrongful conviction was rarely constructed as prevalent.

4.3 Constructing Cause: Causal Interpretations, Typifications and Assigning Blame

Alongside the grounds of the social problem, claims-makers construct the cause of wrongful conviction through the use of diagnostic frames. Diagnostic frames encompass claims that make assertions about the type of problem while providing a causal explanation (Loseke and Best 2003:77). They construct the meaning of the condition, including what type of problem it is and who or what causes the problem (Loseke 2011:69). In order of prevalence, the causal explanations offered by claims-makers throughout the coverage will be explored. This section will also examine how wrongful conviction was typified as legally-situated. Last, aside from the blame placed on Dr. Smith, blame was rarely clearly established and wrongful conviction was depicted as unintended errors or mistakes. Table 2 provides the frequency counts for all measures related to the construction of cause.
Table 2. Frequency Table for Causal Interpretations and Typifications of the Problem in News Coverage on Wrongful Conviction (N = 280)

<table>
<thead>
<tr>
<th>Causal Interpretation of WC</th>
<th>N</th>
<th>%</th>
<th>n</th>
<th>%</th>
</tr>
</thead>
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<td>No causal interpretation</td>
<td>55</td>
<td>20</td>
<td>74</td>
<td>26</td>
</tr>
<tr>
<td>One cause/force/factor identified in article</td>
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<td>40</td>
<td>280</td>
<td></td>
</tr>
<tr>
<td>More than one cause/force/factor identified in article</td>
<td>113</td>
<td>40</td>
<td>280</td>
<td></td>
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<tr>
<td>Type of problem (problem of)</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social structure</td>
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<td>24</td>
<td>32</td>
<td>11</td>
</tr>
<tr>
<td>Social forces</td>
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<td>9</td>
<td>19</td>
<td>7</td>
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<td>Individual</td>
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<td>20</td>
<td>7</td>
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<td>14</td>
<td>5</td>
</tr>
<tr>
<td>Unidentified</td>
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<td>38</td>
<td>14</td>
</tr>
<tr>
<td>Cause/Force/Factor Identified</td>
<td>280</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Circumstantial Evidence or Jailhouse Informants or Witness</td>
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<td>16</td>
<td></td>
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<tr>
<td>Misidentification/Testimony</td>
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<td>16</td>
<td>19</td>
<td>7</td>
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<td>Non-Disclosure by Crown or Police</td>
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<td>Yes</td>
<td>30</td>
<td>11</td>
<td>20</td>
<td>7</td>
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<td>False or Coerced Confession or Plea</td>
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<td></td>
</tr>
<tr>
<td>Yes</td>
<td>55</td>
<td>20</td>
<td>38</td>
<td>14</td>
</tr>
</tbody>
</table>

Notes: Wrongful Conviction (WC)

Causal Interpretations and Typifications of Wrongful Conviction

Causal interpretation in the current study refers to any cause, force or factor linked to wrongful conviction throughout the coverage. Only 20 percent of the coverage (55 articles) did not make any claims about contributing factors to wrongful conviction (see Table 2). The rest of the coverage listed one cause (40%) or more than one (40%). Loseke (2011:73) identifies three common typifications that the condition may be categorized as: 1) a problem of social structure; 2) a problem of social forces; 3) an individual problem. Thirty percent of the coverage did not
contain enough information to identify how the problem was typified. Out of the three typifications identified by Loseke (2011), 24 percent of the coverage typified wrongful conviction as a problem of social structure, 19 percent as an individual problem, and 9 percent as a problem of social forces. The remaining 18 percent of the coverage typified the problem in more than one way.

The most prevalent causal interpretation throughout the coverage was expert testimony. In particular, seventy-four news articles (26% of the coverage) interpreted expert testimony as a cause, force or factor linked to wrongful conviction (see Table 2). The high frequency of expert testimony is likely due to the fact that 81 news articles (29% of the coverage) mentioned Dr. Charles Smith, whose expert testimonies were frequently identified as the cause of wrongful conviction. For example, one journalist wrote that, “Dr. Smith[’s] erroneous expert evidence and testimony contributed to more than a dozen criminal charges, many of which resulted in wrongful convictions” (Article 71). Similarly, another article reads, “he was found later to have made errors or delivered inaccurate or inflammatory testimony in 20 death investigations, the majority of which led to criminal charges against parents” (Article 69).

In news articles about Dr. Smith, wrongful conviction was often typified as an individual problem since his behaviour or beliefs were said to cause or contribute to wrongful conviction. However, not all news articles that referenced expert testimony implicated Dr. Smith. Some typified wrongful conviction as a structural problem to the extent that the forensic pathology system was flawed due to a lack of oversight and proper training. For example, Judge Goudge claimed that the “tragic story of pediatric forensic pathology in Ontario…is not just the story of Dr. Smith. It’s equally the story of failed oversight…and accountability mechanism[s]” (Article 199). Similarly, one journalist reasoned that “Smith’s errors went unchecked for years because of
a lack of oversight [and that] there are about 200 forensic pathologists in Ontario but only about 12 are qualified to work on criminally suspicious coroners’ cases” (Article 150).

False confessions or pleas were also identified as a leading cause of wrongful conviction. Table 2 indicates that 55 news articles (20% of the coverage) mentioned false or coerced confessions or plea bargaining through a false guilty plea. Claims-makers pointed to problems with the admissibility and frailty of evidence. For example, false confession evidence was depicted as weak (ex. Article 31; Article 128), unlawful or unfairly obtained (ex. Article 161; Article 128). Similarly, the frailties of false confession evidence have been identified in academic literature as a contributing factor to wrongful conviction (ex. Denov and Campbell 2005; Huff and Killias 2013; Roach 2012b; Overton 2008). However, social pressures which illicit confessions were also discussed throughout the coverage (ex. Article 276; Article 25). Dependent on how cause was depicted, articles involving false confessions or guilty pleas either typified wrongful conviction as a problem of social structure (ex. evidence admissibility laws and procedures), as a problem of social forces (ex. social pressures which illicit confessions), or as both.

Claims-makers also warned about the frailties of circumstantial evidence, including witness testimony or the use of jailhouse informants. Forty-six news articles (16% of the coverage) identified circumstantial evidence as a contributing factor to wrongful conviction. Similarly, Zalman (2011:1501) points out that eyewitness misidentification, including police line-ups, is on the “short-list of more or less agreed upon causes” in academic literature. In the current study, circumstantial evidence, mainly eyewitness testimony, was constructed as unreliable. For example:
A wrongfully convicted man has become the poster boy for the pitfalls of eyewitness testimony… Mr. Webber, 30, is a poster boy for how badly the justice system can go awry when a prosecution is based on little more than the says-so of an adamant eyewitness. ‘It is the honest, but mistaken, eyewitness who creates the real challenge for the system,’ said [a law professor]. [He] said eyewitnesses usually appear sincere, making their testimony compelling, yet their evidence can all too often ‘be inherently flawed and completely unreliable.’ (Article 112).

Moreover, James Lockyer, “urged the judges to use their ruling to illustrate the shortcomings of eyewitness testimony. The Hanemaayer case was a ‘textbook example’ of the problem, he said, since the only evidence was an identification by the victim’s mother” (Article 223).

Claims-makers were equally weary of the use of more direct, forensic evidence. Forty-five news articles (16% of the coverage) linked the improper use or invalidated forensic science to the problem of wrongful conviction (see Table 2). Similar to Shippee’s (2008) analysis of American news coverage, the use of scientific evidence continues to be a relevant topic of debate when examining the causes of wrongful conviction. News articles contained claims about the susceptibility of contextual bias or human error when interpreting science. As discussed in chapter two, those in “specialized institutional settings” have also expressed concern over the fallibility of forensic science, but have since moved on from the view of wrongful conviction as inevitable human error (Martin 2002; Zalman 2011; Bandes 2008). In the current study, however, claims-makers continued to point to the fallibility of the criminal justice system and expressed concern over a lack of scientific objectivity. The following two excerpts demonstrate this finding:

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34 Best and Harris (2012:108) use the term “specialized institutional settings” to describe a contemporary source of expertise, such as academic researchers or advocacy groups.
‘There is a dark side to DNA….There are too many miscarriages…when it comes to science, and now you know in advance, prior to trial, that you do not have the most certain test,’ [a criminal lawyer in Ontario] said….He also said that contextual bias can add a fuzzy layer of doubt to even the most air-tight scientific test…. ‘I don’t know how certain or uncertain these [DNA tests] are’ (Article 16).

Contaminated samples [and] inept analysts have led to miscarriages of justice…[Mr. Turner, a WCI] said, ‘I think DNA can be good, but it’s only as good as the people who perform it’…. [His lawyer] described the case as a blow to the scientific objectivity of the RCMP lab…. ‘This case is an example of how untested scientific techniques, human error and bad science could have combined to obtain a conviction for murder.’ (Article 110).

Alongside the improper use of science, invalidated forensic evidence was also identified as a cause or contributing factor of wrongful conviction. For example, shaken baby syndrome was referred to as “questionable” (Article 61; Article 132), “scientifically un-sustainable” (Article 74) “outdated” (Article 279), “faulty” (Article 184) and “old” (Article 192) when describing the evidence used in a wrongful conviction case.

In articles which linked circumstantial or forensic evidence, wrongful conviction was often typified as a problem of social structure. The uses of these evidences or the frailties of such were typically situated in evidence admissibility laws, which placed the issue in the court system. However, in contrast to these legally-situated causes of wrongful conviction, bias or tunnel vision was most often coded as a problem of social forces. In fact, 32 news articles mentioned tunnel vision or bias towards the offender (11% of the coverage). However, these causes were rarely explained in depth. News articles contained the words “tunnel vision” or “bias” without necessarily examining why specific WCIs were the victims of such bias or why tunnel vision occurs. For example:
Mr. McGuigan gained the conviction of Guy Paul Morin in the 1984 rape and murder of a nine-year-old girl after a gruelling, nine-month trial. Mr. Morin was later exonerated, and a public inquiry found that prosecutors were devoid of objectivity, and displayed ‘staggering’ tunnel vision (Article 53).

Similarly, the following excerpt shows how tunnel vision was listed but not discussed any further:

Mr. Bain was behind bars for 13 years before he won a new trial. His second trial, in 2009, featured evidence of police tunnel vision, botched forensic testing and incest within the Bain family. Mr. Bain was acquitted (Article 22).

Equal to the frequency in which tunnel vision or bias was identified, claims regarding inadequate defense work or issues with legal aid were evident in 31 news articles (11% of the coverage, see Table 2). Several articles discussed how the legal aid boycott by senior criminal lawyers may contribute to wrongful conviction since only inexperienced junior counsel were left to deal with criminal cases, creating an uneven playing field between the defense and prosecution (ex. Article 127; Article 135; Article 79; Article 142). Although news articles which linked this cause to wrongful conviction were most often typified as a problem of social structure (ex. lack of qualified employees; pay rates; legal aid regulations), some news articles appealed to classism and “two-tiered justice” by discussing the unequal risk of wrongful conviction among the “poorest people in the province” (ex. Article 135; Article 142). These articles demonstrate the typification of wrongful conviction as a problem of social forces.

Another eleven percent of the coverage depicted non-disclosure by the crown or police as an issue related to wrongful conviction (see Table 2). Similar to the findings about evidence admissibility, this finding also highlights the uses of evidence in trial or appeal processes. Crown or police were seen as withholding important evidences which contributed to or perpetuated
wrongful conviction (ex. Article 125; Article 75; Article 76). However, as will be discussed below, blame or fault on the part of criminal justice actors was not clearly established.

Outside of withholding evidence, Crown, police and judges were implicated for their role in wrongful convictions. In fact, 20 percent of the coverage depicted misconduct or wrongdoing on the part of criminal justice actors (see Table 2). However, the conduct of criminal justice actors was rarely linked to the social problem in thematic frames. News articles simply stated how a judge, a prosecutor, or the police acted improperly in a certain case. For example, “though considered a good judge, Christopher Pattern failed miserably at keeping decorum in the courtroom… and that had to have an impact on the result” (Article 41). Similarly, in the article below, the Crown attorney is implicated in the specific case, but Crown misconduct is not referenced as a significant problem in general:

The lawyers also take issue with the trial Crown attorney’s contention that Cain’s claim of fearing for his life is unrealistic, given the power imbalance in the weaponry. Both submissions by the prosecution were wrong in law and the trial judge should have corrected these statements for the jury (Article 62).

Wrongdoing on the part of criminal justice actors (other than Dr. Charles Smith) was rarely discussed as problematic outside of specific wrongful conviction cases. Journalists may have been unlikely to depict actor misconduct as a significant problem since justice officials, such as the police or the prosecution, are typically rewarded for their success in putting ‘bad guys’ away (Maidment 2009). This is in contrary to witness misidentification, false confessions, and forensic evidence, since they were described as “typical”, “textbook” or as the “classic ingredients” of a wrongful conviction (ex. Article 157; Article 164; Article 223). These causes were identified in thematic news frames whereby their high potential for causing wrongful conviction was
discussed (ex. Article 157; Article 164; Article 161; Article 31; Article 167; Article 186; Article 223).

Sensationalism of crime or public outcry/pressure for conviction was only linked to wrongful conviction in 6 percent of the coverage (see Table 2). In contrast, the sensationalism of crimes by the media has been linked to wrongful conviction in academic literature (ex. Jenkins 2013a; Maidment 2009; Denov and Campbell 2005). Convicting someone who may absorb the blame for a sensational crime may help to ease public outcry. This thirst for a conviction has been said to taint the investigation, leading to miscarriage of justice. The low frequency of public outcry is consistent with the tendency to report on causes which are more legally-situated in the court process itself.

Wrongful Conviction as Legally-Situated

The causal interpretations and typifications of wrongful conviction listed above demonstrate how the problem was constructed as primarily legally-situated. An inadequate pathology system, evidential admissibility rules and the use of frail or faulty evidences were often depicted as the key contributing factors to wrongful conviction. These legally-situated causes match those studied in academic research, such as misuse of expert evidence, false confessions and eyewitness misidentification (Zalman, Smith and Kiger 2008; Zalman 2011). In contrast, these findings differ from Overton’s (2008) conclusions about the portrayal of wrongful conviction in entertainment movies. While entertainment movies rarely linked false confessions, jailhouse informants, and faulty forensics to wrongful conviction, news media offered all of these causal interpretations. This may be due to the fact that the news coverage documented real cases of wrongful conviction while entertainment movies fabricated their stories.
To recall, only 9 percent of the coverage depicted wrongful conviction as a problem of social forces. The more frequent use of episodic news frames may help explain why the problem was rarely typified as one of social forces. As previously discussed, episodic frames do not identify shortcomings at the community or societal level which have contributed to the problem (Iyengar, 1994). Moreover, this low frequency may be due to the fact that the media tends to simplify crime and its causes (Getty 2001; Bandes 2008; Zalman 2011). Loseke (2011:74) argues that a common claims-making strategy is to typify the problem in simple diagnostic frames “because they offer an easy route to resolution of the problem”. For example, sensationalism of crimes by the media and public outcry is more complex than other causes, such as false confessions or expert testimony. It involves the media, the community, the WCI, the investigators, juries and so on. Claims-makers may have therefore avoided making causal interpretations related to public outcry or the sensationalism of crimes.

In contrast to the news coverage, more recent academic research has identified wider systemic issues that contribute to the problem, such as systemic racism or class bias. However, similar to this academic research, the multiplicity or complexity of the problem was recognized throughout the coverage. More specifically, 18 percent of the coverage constructed wrongful conviction in two different typifications. This appeals to Castelle and Loftus’ (2011) understanding of the problem, whereby both individual and systemic factors inherent to the criminal justice system may, either alone or in concert with each other, contribute to wrongful convictions (as cited in Denov and Campbell 2005:226).
Absence of Clear Blame or Fault: Unintended Mistakes

Although Dr. Charles Smith and other criminal justice actors were sometimes implicated, there was an absence of clear fault or blame among these parties. Similar to how sympathy compels the audience to help victims, villains may only be condemned if they are seen as blameworthy (Collins, 2013:2; Loseke 2011:96). Assigning blame to criminal justice actors is unusual in news media because these individuals are usually constructed as the heroes of the story (Maidment 2009). The people behind bars are commonly seen as the villains, and not the officials who put them there.

In the current study, wrongful convictions were depicted as unintentional mistakes or errors, which may make it difficult for audience members to place blame. For example, one journalist claimed that “while mistakes have been made, none were intentional” (Emphasis Added; Article 256). Similarly, the head of David Milgaard’s inquiry “wrote… that a string of mistakes were made by justice officials acting in ‘good faith’ and obeying the ‘standards of the day’” (Emphasis Added; Article 205). Additionally, when constructing crime stories, Loseke (2011:98) explains that audience members favour claims about victims as opposed to villains. This may be why there was not a clearly established villain who caused wrongful conviction. Instead, the victims of the problem – WCIs – were of greater focus than the villains.

4.4 Constructing Wrongfully Convicted Individuals (WCI)

Constructing victims as “morally good people who are greatly harmed through no fault of their own” is a strategy used by claims-makers to achieve sympathy (Loseke 2011:92; Christie 1986:18). This strategy was recognized throughout the coverage as WCIs were constructed as
innocent and good, and therefore may be seen as underserving of the harm caused by the social problem. However, little information was provided in terms of WCIs’ demographic and personal information, which is likely due to the incompatibility between WCIs and the “ideal victims” of crime-related stories (Christie 1986:18; Collins 2013:2). Table 3 contains information about the characteristics of WCIs.

Table 3. Frequency Table for Characteristics of the Construction of WCIs in News Coverage on Wrongful Conviction (N = 280)

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>N</th>
<th>%</th>
<th>Language/Tone towards WCI</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Used the word “Innocent” to Describe WCI(s)</td>
<td></td>
<td></td>
<td>Positive connotations</td>
<td>134</td>
<td>62</td>
</tr>
<tr>
<td>No</td>
<td>212</td>
<td>76</td>
<td>Negative connotations</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Yes</td>
<td>68</td>
<td>24</td>
<td>Both positive and negative</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>Variables Concerning the WCI/WCC</td>
<td></td>
<td></td>
<td>Neutral</td>
<td>71</td>
<td>32</td>
</tr>
<tr>
<td>No</td>
<td>212</td>
<td>76</td>
<td>History of Alcohol/Drug Use</td>
<td>217</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>68</td>
<td>24</td>
<td>History of Family Violence</td>
<td>217</td>
<td></td>
</tr>
<tr>
<td>Unidentified</td>
<td>193</td>
<td>89</td>
<td>No</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Yes</td>
<td>24</td>
<td>11</td>
<td>Yes</td>
<td>11</td>
<td>5</td>
</tr>
<tr>
<td>Unidentified</td>
<td>206</td>
<td>95</td>
<td>Yes</td>
<td>26</td>
<td>12</td>
</tr>
<tr>
<td>Age when Convicted</td>
<td></td>
<td></td>
<td>Unidentified</td>
<td>205</td>
<td>94</td>
</tr>
<tr>
<td>Identified</td>
<td>30</td>
<td>14</td>
<td>Prior Criminal Record</td>
<td>217</td>
<td></td>
</tr>
<tr>
<td>Unidentified</td>
<td>187</td>
<td>86</td>
<td>No</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Yes</td>
<td>24</td>
<td>11</td>
<td>Yes</td>
<td>11</td>
<td>5</td>
</tr>
<tr>
<td>Unidentified</td>
<td>12</td>
<td>6</td>
<td>No</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Prior Criminal Record for Violent Crime(s)</td>
<td></td>
<td></td>
<td>Yes</td>
<td>13</td>
<td>6</td>
</tr>
<tr>
<td>No</td>
<td>0</td>
<td>0</td>
<td>Unidentified</td>
<td>204</td>
<td>94</td>
</tr>
<tr>
<td>Yes</td>
<td>15</td>
<td>5</td>
<td>Described as low</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Unidentified</td>
<td>208</td>
<td>96</td>
<td>Described as high</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Mental or Intellectual Capacity</td>
<td></td>
<td></td>
<td>Unidentified</td>
<td>208</td>
<td>96</td>
</tr>
<tr>
<td>No</td>
<td>0</td>
<td>0</td>
<td>Described as low</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Yes</td>
<td>13</td>
<td>6</td>
<td>Described as high</td>
<td>3</td>
<td>1</td>
</tr>
</tbody>
</table>

*If an article mentioned at least one WCI/WCC (n = 217), demographic, case-specific and personal information was recorded. If more than one WCI/WCC was mentioned in an article, the WCI/WCC most referred to was used as the subject of coding.
WCIs as Innocent and Good

First, WCIs were constructed as innocent victims of their wrongful conviction. In particular, their innocence was very rarely doubted throughout the coverage. Only two percent of news articles on specific cases used negative language towards WCIs (see Table 3). Most news articles discussed WCIs using positive connotations (62% of the coverage), which suggests a lack of suspicion regarding their innocence. Moreover, 68 news articles (24%) used the word “innocent” when referring to WCI(s). Similar to the use of the word “victim”, this is a conservative estimate; WCIs were also constructed as innocent without the specific use of the word. For example, one journalist wrote that ‘they’ve been in jail for 13 years for a crime they didn’t do.’ (Article 253). Similarly, Anthony Hanemaayer claimed that his “‘parents always stuck by [him]. They knew they didn’t raise a son who would do this’” (Article 224). Claims-makers’ belief in WCIs’ innocence may be due to the fact that most cases of wrongful conviction occurred during or after the remedy stage where a campaign of their innocence has already been established. Also, WCIs were the most cited source of information throughout the coverage. They therefore had ample opportunities to attest their innocence.

In addition to the construction of WCIs as innocent, they were also discussed in a positive light. For example, one article reads, “Mr. White was hailed as a hero who had soared above his tragic beginnings, and was one selected as Orilla’s volunteer of the year (Article 133). Similarly, another journalist refers to how a WCI’s mother knew that “her tall, handsome and shy second son, who excelled at track and field and liked to fish in his spare time, couldn’t have committed the grisly crime he was accused of” (Article 271). When combining these constructions of goodness and innocence, audience members may be more likely to view WCIs as undeserving of the harms caused by wrongful conviction. Sympathy among audience members is more likely to
be garnered when WCIs are constructed as underserving of punishment (Loseke 2011:92). In turn, audience members may be more inclined to view wrongful conviction as an important social problem to address (Loseke 2011:92).

**WCIs as Unideal Victims**

To gather more information about the depiction of WCIs, demographic and personal information was collected from articles on specific cases (See Table 3 under “Variables Concerning the WCI/WCC” for a complete list). With the exception of the WCI’s sex (identified in 94% of the coverage) and their age at the remedy stage or later (identified in 25%), limited information was provided on their personal and demographic characteristics. More specifically, over 87 percent of the coverage did not identify the WCI’s social class, whether they were identified as a visible minority, their history of alcohol/drug use, their history of family violence, their criminal record (violent and non-violent), their mental or intellectual capacity, or whether they were constructed as alternative or marginalized.

This finding contradicts more recent academic research on wrongful conviction as scholars have pointed out that WCIs are often the marginalized or visible minorities in society (Maidment 2009; Smith and Hattery 2011; Anderson 2011). Anderson and Anderson (1998:1) have long argued that certain individuals and groups who are socially, politically and economically powerless are more likely to become victims of wrongful conviction. Class bias, racial discrimination and social inequality increase the probability that marginalized people become the victims of wrongful conviction (Bell, Clow and Ricciardelli 2008:78). In contrast to this research, news coverage on wrongful conviction rarely identified such information, such as class, race, education or whether they were seen as having an alternative lifestyle.
Since wrongful conviction was rarely typified as a problem of social forces (such as racism, classism, etc.), this may explain why demographic and personal information on WCIs was rarely included throughout the coverage. Systemic racism or classism was rarely constructed as cause/force/factor involved in wrongful conviction. As previously discussed, even when tunnel vision or bias was identified in news articles, claims-makers did not explain why specific WCIs were the victims of such bias or why tunnel vision occurs. Also, identifying these demographic and personal characteristics, such as race, class, and alternative status, may detract from the depiction of WCIs as victims. Christie (1986:18) describes the “ideal victim” as those who are perceived as defenseless, innocent, and worthy of compassion. While white women, the middle-class, and children are typical “ideal victims” in media coverage, those “existing on the margins of society may find it much more difficult to achieve legitimate victim status” (Greer 2012:22; Collins 2013; Christie 1986). Audience members may not feel compassion towards WCIs since they rarely fit the description of the ideal victim. In fact, Collins (2013:2) found that Canadian print media often blames visible minority victims for their own victimization.

Collins’ (2013:2) findings are similar to how news media showed a commitment to the personal stories of a select few individuals, thus identifying them as the “ideal victim” of the problem. For example, Truscott may be seen as the poster boy of wrongful conviction. The audience is frequently given information on the milestones and intimate details of Truscott’s life, such as when a play was written about him (Article 15), his mother’s commitment to his innocence (Article 271), the prison’s chaplain’s role as a father figure to Truscott (Article 271), and when he was diagnosed with cancer (Article 33). Claims-makers’ affinity to the Truscott case may be due to the fact that audience members may be more likely to see him as relatable and worthy of compassion. This is referred to as “personalizing the victim” (Loseke 2011:95).
Truscott’s family was described as the “typical air force family”, with his mother Dot “who spent her time cooking, cleaning [and] doing endless loads of laundry” (Article 271). The fact that Truscott is a white, middle-class male may promote feelings of sympathy and empathy among audience members.

4.5 Constructing the Solution: What Should be Done and Who Should Do It?

Claims-makers construct the solution to the social problem through the use of prognostic frames. Prognostic frames construct a general line of action through treatment recommendations (what should be done) and the responsibility for that action (who should do it) (Loseke and Best 2003:77; Loseke 2011:111). These frames legitimize certain solutions, construct specific indicators of success, and assign specific people or groups the responsibility for changing the condition (Loseke and Best 2003; Snow and Benford 1998 as cited in Loseke 2011:111). The following section will therefore explore the treatment recommendations offered or legitimized by claims-makers throughout the coverage and their specific indicators of success. Similar to how the problem was typified, the solution to wrongful conviction was reactionary and targeted at the legal system. This section also explores how students and AIDWYC were identified as integral parties for alleviating or addressing wrongful conviction. See Table 4 for information as to how the solution was constructed.
Table 4. Frequency Table Characterizing the Construction of Solutions in News Coverage on Wrongful Conviction (N = 280)

<table>
<thead>
<tr>
<th>Recommendation(s) Made or Discussed</th>
<th>N</th>
<th>%</th>
<th>Compensation</th>
<th>n</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>No recommendations</td>
<td>83</td>
<td>30</td>
<td>Yes</td>
<td>46</td>
<td>16</td>
</tr>
<tr>
<td>One recommendation</td>
<td>124</td>
<td>44</td>
<td>Evidence</td>
<td>18</td>
<td>6</td>
</tr>
<tr>
<td>More than one recommendation</td>
<td>73</td>
<td>26</td>
<td>Use and Limitations of Other Evidences</td>
<td>18</td>
<td>6</td>
</tr>
<tr>
<td>Recommendation(s) Made or Discussed</td>
<td>197a</td>
<td></td>
<td>Acquit or Deem Factually Innocent</td>
<td>20</td>
<td>7</td>
</tr>
<tr>
<td>No</td>
<td>126</td>
<td>64</td>
<td>Yes</td>
<td>24</td>
<td>9</td>
</tr>
<tr>
<td>One is preventative</td>
<td>56</td>
<td>28</td>
<td>Inquiry</td>
<td>19</td>
<td>7</td>
</tr>
<tr>
<td>More than one is preventative</td>
<td>15</td>
<td>8</td>
<td>Yes</td>
<td>17</td>
<td>6</td>
</tr>
<tr>
<td>Recommendation(s) Made or Discussed</td>
<td>197a</td>
<td></td>
<td>Accountability</td>
<td>17</td>
<td>6</td>
</tr>
<tr>
<td>No</td>
<td>54</td>
<td>28</td>
<td>Yes</td>
<td>280</td>
<td></td>
</tr>
<tr>
<td>One is reactive</td>
<td>97</td>
<td>49</td>
<td>Fair, Equal or Unbiased Treatment of Accused/WCI</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>More than one is reactive</td>
<td>46</td>
<td>23</td>
<td>Yes</td>
<td>69</td>
<td>25</td>
</tr>
<tr>
<td>Importance of Being Recognized as Being Innocent</td>
<td>217b</td>
<td></td>
<td>Other</td>
<td>280</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td>154</td>
<td>71</td>
<td>Yes</td>
<td>63</td>
<td>29</td>
</tr>
<tr>
<td>Yes</td>
<td>63</td>
<td>29</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations Made or Discussed</td>
<td>280</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rules of Appeal</td>
<td>280</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>49</td>
<td>18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent Review of WC</td>
<td>280</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>10</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review SBS Cases and/or Dr. Smith Cases</td>
<td>280</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>16</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: Wrongfully Convicted Individual (WCI); Association in Defence of the Wrongly Convicted (AIDWYC); Wrongful Conviction (WC); Shaken Baby Syndrome (SBS)

- Only 197 articles (out of N = 280) were coded for this variable because articles which did not suggest or discuss any recommendations were (n = 83) were deemed “Not Applicable”.
- Only 217 articles (out of N = 280) were coded for this variable because articles which did not mention a specific WCI/WCC (n = 63) were deemed “Not Applicable”. If more than one WCI/WCC was mentioned in an article, the WCI/WCC most referred to was used as the subject of coding.
- Includes uses of fresh evidence during appeals; uses of old evidence during appeals or more opportunities to intervene in the appeal process.
Treatment Recommendations

The majority of news articles made one recommendation as opposed to two or more (44% of the coverage) (see Table 4). Lowney (2008:333) discusses how claims-makers “need to provide enough detail to make people feel confident that the solutions proffered could work yet not too much detail, for that might lead to premature disputes about implementation, which could decrease support”. In addition, most of the recommendations made or discussed throughout the coverage were reactive as opposed to preventative. The higher frequency of reactive recommendations may be due to the fact that the majority of news articles reported on specific cases of wrongful conviction where the conviction has already been overturned.

The most prevalent treatment recommendation throughout the coverage was to review convictions and scan for errors so as to better detect those which may have been wrongful. More specifically, three recommendations shared the underlying goal to better review and detect wrongful conviction: First, four percent of news articles supported an independent review of wrongful conviction; Second, 18 percent of news articles sought changes to the rules of appeal, including the use of fresh evidence during appeal or more opportunities to intervene in the appeal process; Third, six percent of news articles recommended or supported the review of cases where Dr. Smith provided expert testimony or where shaken baby syndrome played a role in the conviction. All three of these treatment recommendations aim to review or monitor convictions at different stages of the criminal justice process so as to better detect miscarriages of justice.

Claims-makers throughout the coverage compared Canada’s review and monitoring processes to the United Kingdom’s Criminal Cases Review Commission (CCRC). For example, one journalist wrote how “nearly 300 convictions have been quashed by the courts in Britain
since the [UK] set up an arm’s-length agency in 1997”, yet the Canadian “federal government’s failure to set up an independent commission…has left Canadian lagging behind” (Article 165). Similarly, a director of AIDWYC claimed that the British model is “much better at finding and solving [wrongful convictions as] the six-member unit within the [Canadian] federal Department of Justice…remains a pale shadow of the CCRC” (Article 193). These comparisons demonstrate the identification of specific indicators of success whereby the UK’s review system is held as the golden standard.

Alongside the influence of the British model, the above treatment recommendations were also influenced by how the problem was defined. As previously discussed, each definition creates “a different type of problem, and each tends to be accompanied by corresponding claims regarding causes and solutions” (Best and Harris 2012:4). The “logical solution to a problem depends on the diagnostic frame” (Loseke 2011:111). Similar to how wrongful conviction was typified as a legal error located in the criminal justice system, claims-makers targeted the legal system, whether it be through appeals or a review board, to address the mistakes made earlier throughout the process.

Next, claims-makers often discussed compensation for the victims of wrongful conviction (16% of news articles; see Table 4). This focus may be due to the fact that the majority of news articles discussed specific cases of wrongful conviction at the post-remedy stage and compensation is logically considered after a conviction has been quashed. For example, claims-makers argued for the importance of receiving financial compensation as recognition of the harms faced by WCIs (ex. Article 118; Article 93; Article 155). However, despite the importance of receiving compensation, claims-makers discussed how money would never be enough to completely compensate the victims of wrongful conviction. For example:
'This is a bittersweet moment for us,' the Truscotts said in a joint statement from Guelph, Ont. 'Although we are grateful for the freedom and stability this award will provide, we are also painfully aware that no amount of money could ever truly compensate Steven for the terror of being sentenced to hang at the age of 14, the loss of his youth or the stigma of living for almost 50 years as a convicted murderer' (Article 219).

William Mullins-Johnson’s defense lawyer also described the inadequacies of financial compensation:

‘Money cannot turn back the hands of time. It cannot bring back 12 important years of [William Mullins-Johnson’s] life. Money cannot remove the label of a convicted sex offender, notwithstanding his acquittal, that some people still see in him. It cannot repair the harm to the important familial relationships that he has. And money cannot resolve post-traumatic stress,’ [his defense lawyer] said (Article 88).

This finding is consistent with the construction of harm throughout the coverage. As previously discussed, the harm faced by WCIs was depicted as life-changing and continual, even after release. Claims made about the inability of financial compensation to cure these harms are therefore compatible with how harm was constructed; since the damage was depicted as permanent or scarring, money is not able to reverse it.

Compatibility between problem definition and the solution can also be seen when considering the recommendations made about the use of evidences. As previously discussed, claims-makers expressed concern over the frailties of forensic pathology, expert testimony and DNA evidence throughout the coverage. Similarly, 13 percent of articles made recommendations about expert evidence (6%) or the use and limitations of other types of evidences in general (7%) such as DNA evidence (Article 239; Article 16; Article 110), fingerprinting or handwriting
analysis (Article 152), false confessions (Article 31; Article 128) and forensic kinesiology (Article 11).

When addressing how the conviction was remedied, only nine percent of articles contained claims which advocated for acquittals or the declaration of factual innocence (see Table 4). For example, Mr. Phillion stressed the importance of being legally recognized as innocent through an acquittal since “allowing the Crown to simply withdraw the charge denied him an opportunity to ‘clear his name’” (Article 109). Similarly, Mr. Baltovich said that “the courts have been quite clear in saying that an acquittal equates to innocence. If you are acquitted, the law says you are innocent” (Article 114). This is a specific indicator of success for WCIs and their supporters because it sets a standard of what is needed to remedy their wrongful conviction. Specifically, innocence must be recognized in order for the solution to be legitimized or supported. In addition, acknowledging one’s innocence was made an important standard outside of the court process. Although only nine percent of articles contained claims about legal or factual innocence, 29 percent of news articles discussed the importance of being recognized as innocent in general, without necessarily specifying that this must occur through an acquittal (see Table 4). For example, Mr. White said that he wants “‘the stain removed from [his] name…. [so] society will finally be told that it didn’t happen’” (Article 133). Similarly,

Mr. Kumar,… said his faith pulled him through, even when his community turned on him. ‘They're pointing on my back [saying]: 'This is that guy who killed his own son,’” he said. ‘… I'm going to get that letter and I'm going to put it in my community temples so people know that I'm not a killer. I'm innocent.’ (Article 72).

Prognostic frames construct the solution “as resolving the harm created by the condition” (Loseke 2011:113). As previously discussed, WCIs were negatively harmed by the stigma
attached to their conviction. Stressing the importance of being recognized as innocent is therefore compatible with ameliorating or resolving this harm.

In contrast, provincial inquiries were rarely recommended to resolve the harm caused by the social problem. Only 19 news articles (7% of the coverage) recommended or supported the use of provincial inquiries (see Table 4). Claims-makers often agreed with previous inquiry recommendations and favored their implementation, but rarely recommended that a new inquiry should be conducted. For example, an independent review commission for wrongful conviction was supported throughout the coverage. Claims-makers often expressed discontent with the fact that this has not been created or implemented, even though several provincial inquiries and reports have recommended it (ex. Article 193; Article 165).

Only six percent of news articles suggested or discussed accountability mechanisms (see Table 4). This is not surprising since mistakes made by criminal justice actors were often labeled as unintentional. The desire to hold someone accountable may fade if they are not seen as culpable. As previously discussed, with the notable exception of Dr. Smith, fault or blame was rarely clearly established throughout the coverage. Therefore, as expected, this recommendation for accountability was targeted primarily towards Dr. Smith and his colleagues. For example, one journalist wrote that “victims of wrongful murder charges and convictions are crying foul over the move [to not charge Dr. Smith], arguing those who enabled Smith to ruin so many lives are not being held accountable” (Article 98). Similarly, William Mullins-Johnson said that Dr. Smith and his colleagues “should be held accountable” (Article 198).

The focus on unintended errors or mistakes may also explain why some news articles did not recommend any course of action. Indeed, 30 percent of articles did not make or discuss any
treatment recommendations with regards to specific cases or toward wrongful conviction in general. Additionally, some news articles suggested that no change was needed; claims-makers viewed the criminal justice system as self-correcting or as working properly. This is demonstrated in the following three excerpts:

While he agreed there is merit to the idea of an independent agency, ‘the reality is that the Justice Department is doing a very good job,’ said Mr. McFarlane [a former Deputy Attorney-General in Manitoba] (Article 111).

‘In short, the justice system has worked exactly as it should in this case,’ she noted in the court document. ‘It accepted a valid guilty plea in a case based on valid current medical knowledge. It has now acted to respond when the prevailing understanding of that medical knowledge has changed and the appellant has explained his guilty plea.’ (Article 74).

Attorney-General Chris Bentley initially rejected calls for an inquiry to examine… Mr. Baltovich’s wrongful conviction and the 18 years it took to clear his name. ‘My first instinct is that this case followed the process,’ he said yesterday morning. ‘It is not the type of case that would merit or warrant an inquiry.’ (Article 235).

The least frequent recommendation was the fair, equal or unbiased treatment of the WCI at only four percent of the coverage (see Table 4). Since wrongful conviction was rarely typified as a problem of social forces, such as systemic racism, this may help explain why solutions for fair or equal treatment were also missing from the coverage.

Assigning Responsibility to Fix the Problem: The Province, Students, and AIDWYC

Findings indicated that provincial governments, students, and AIDWYC should assume responsibility for fixing the problem. First, the language of “the province” was often used when referring to what should be done to address cases of wrongful conviction or reduce its likelihood
in the future. For example, one journalist wrote how Stephen Goudge’s “final report called on the province to review shaken baby deaths from the past 25 years to determine if any wrongful convictions resulted from [forensic] evidence” (Emphasis Added, Article 61). Another journalist wrote that Phillion’s lawyers “called on the province to ‘redeem’ itself by withdrawing charges (Emphasis Added, Article 167). The province’s call to action demonstrates responsibility at the provincial level of Canadian government as opposed to the federal level for addressing several different recommendations. As shown above, “the province” was called to review shaken baby cases and was urged to address wrongful convictions by withdrawing charges or granting acquittals.

Second, claims-makers throughout the coverage applauded the role that student groups have played in remedying wrongful convictions. Since lawyers are swamped with other paying positions, students were constructed as the next best choice to assist in overturning wrongful convictions. This is demonstrated through the following two excerpts:

‘Lawyers don’t have the time to take on these kinds of clients,’ [the director of the UBC Law Innocence Project,] Ms. Levy said. ‘So if a student can do a lot of the legwork, they can get an excellent learning experience from it. And the lawyer gets some assistance,’ she added (Article 173).

‘Such [student] groups are popping up all over the place,’ says Young [the director of the Innocence Project run by law students at Osgoode Hall]…. ‘It’s hard to get lawyers to persevere on such matters because it’s just not practical for them and because you’re constantly knocking your head against the wall. But it’s well suited for students…. It’s also hard for lawyers to undertake because it means investing a lot of time, many years. That’s not practical for a law firm to sustain. And, of course, it’s pro bono work.’ (Article 153).

Third, AIDWYC was also depicted as integral in the rectification of the problem. For example, a retired Ontario Superior Court judge donated to AIDWYC to recognize and support
the continuance of the organization’s work in “really pick[ing] up the gauntlet and tak[ing] a lead role in finding these cases where there may have been wrongful convictions” (Article 172). He claimed that AIDWYC is the much needed “counterbalance” to the “one-sided balance” of our adversarial system (Article 172). In response to the donation, director James Lockyer said, “this demonstrates such a tremendous commitment to justice. It was so much money that my immediate thought was ‘we can’t take this; it’s too much responsibility.’” (Article 172).

Moreover, the co-president of AIDWYC legitimized their role as a necessary form of support for the review process in Canada. He said, ‘we can assume that [the donor] is aware of the need for some mechanism outside of the appeal process to bring wrongful convictions to light.’ (Article 172). Similarly, another article reads:

‘Her appeals exhausted, abandoned by her family and branded a baby-killer, Ms. Marquardt’s only hope lay in the work of her lawyers at the Association in Defence of the Wrongly Convicted’ (Article 159).

The above findings demonstrate how AIDWYC was depicted as being responsible for fixing the problem when the review process in Canada has proven to be inadequate. This finding is further highlighted when considering the fact that the second most cited source of information was advocacy groups such as AIDWYC. In particular, AIDWYC was a frequent claims-maker in the construction of wrongful conviction, demonstrating the association’s integral role in the rectification of the problem. Audience members are more likely to view AIDWYC as part of the solution since the organization was frequently depicted as the fixers of the problem.
4.6 Summary of Findings

The construction of grounds, causes, WCIs and solutions was explored. Findings demonstrated how wrongful conviction was defined within limited parameters. Moreover, WCIs were identified as the primary of victim of harm, although some news articles also identified harms to families and to the pursuit of justice. Wrongful conviction was typified as a problem of social structure situated in the legal system. It was presented as unintended mistakes and blame was rarely clearly established throughout the coverage. Last, more recommendations were reactive as opposed to preventative, with a specific focus on making changes to the legal system (i.e. review process of wrongful conviction; compensation schemes). Provincial governments, student groups, and AIDWYC were depicted as responsible actors in fixing the problem. These findings provide insight into how the media’s depiction of wrongful conviction may influence social and policy responses to the problem — discussed in the next chapter.
CHAPTER 5: POLICY IMPLICATIONS AND FUTURE RESEARCH

5.1 Introduction

The media can shape what audience members think about and how they think about it (Best and Harris 2013:173). It was therefore important to understand what the media has been saying about wrongful conviction. Additionally, media depictions may be a powerful motivator to do nothing, or take action (Overton 2008). Therefore, this chapter explores how the construction of wrongful conviction may contribute to social and policy responses to the problem. Findings suggest that policy actors and audience members will likely continue to do very little about wrongful conviction, even if they interpret the problem as bothersome. Potential implications for the treatment of WCIs and their cases are discussed. Afterwards, this study concludes with a discussion of key limitations and how these provide important avenues for future research.

5.2 Social and Policy Implications of the Depiction of Wrongful Conviction

The social constructionist approach to social problems contends that how an issue is constructed has “very real consequences” for how it is addressed by policy actors and audience members (Loseke and Best 2003:253; Sutton 2015:3). Media constructions may affect their orientation and participation in wrongful conviction policies, cases or advocacy groups (Schneider and Ingram 1993:334; Best and Harris 2013:229). Therefore, the media is understood as a significant “contextual feature” of social and policy responses to wrongful conviction (Ismaili 2006:260). However, direct and causal inferences between problem depiction and policy
response are not offered. Instead, news media’s construction is viewed as a potential contributor to policy outcomes and public perception of the problem.

Limiting the Parameters, Downplaying the Problem

Findings suggest that audience members and policy actors are unlikely to see wrongful conviction as worthy of their concern and attention. Loseke (2011:67) and Best and Harris (2012:4) argue that a condition will only become recognized as a social problem if it is constructed as widespread or common. Wrongful conviction was only depicted as harmful to a handful of wrongfully convicted individuals (WCIs) who were convicted of serious offences. Although these sensational narratives may grab audience attention (Loseke 2011:124; Best and Harris 2012:229; Iyengar and Simon 1993:367) and generate sympathy (Christie 1986:18; Loseke 2011:92), audience members may not believe that wrongful convictions are commonplace or widespread based on this depiction and therefore may be less inclined to worry about the problem.

Additionally, news media’s emphasis on catching the “real killers” and de-emphasis of blaming those responsible for convicting the innocent may detract from the relative importance of wrongful conviction. Claims-makers in the current study expressed concern over the fact that guilty individuals escaped punishment. This finding is consistent with other media studies on crime-related topics since “celebrating convictions” is a common journalistic imperative (Jenkins 2013a:337). On the other hand, wrongful convictions were seen as unintended mistakes or errors among criminal justice officials. In light of these findings, punishing the guilty and being “tough on crime” may continue to be significant concerns, as opposed to assisting the few individuals who were accidently “erred” by the justice system. When an exceptional mistake did occur,
criminal justice actors were quick to fix the problem and endorse the system for righting the wrong. Small mistakes may not call for big policy change, especially if they are seen as already fixed.

News media most often reported on cases at the remedy or post-remedy stage (63% of the coverage). Therefore, responses to wrongful conviction may be shaped by notions of what should be done in the particular case being discussed. Since most convictions were already overturned, the recommendations made throughout the coverage were most often reactionary as opposed to preventative. Policy responses may be unlikely to address the hardships faced by WCIs before their conviction is recognized or remedied (ex. issues surrounding the profession of innocence when applying for parole; review process of wrongful conviction).

Forensic Frenzy and the Goudge Inquiry

News media often reported on Dr. Smith and shaken baby syndrome, which was likely a contributing factor to the attention around forensic pathology and wrongful convictions in Canada. The Inquiry into Pediatric Forensic Pathology in Ontario, or the “Goudge Inquiry”, was commissioned by Justice Stephen Goudge in 2007-2008. It was mandated to perform a systemic review of the pediatric forensic pathology system in Ontario and its involvement in criminal investigations and proceedings (Ministry of the Attorney General 2008). As previously discussed, the Dr. Smith controversy was a focusing event for wrongful conviction. Focusing events advance issues on the agenda and “act as potential triggers for policy change” (Birkland 1998:53). As Beckett (1997:78) argues, the “coverage of crime in the media may influence the actions of both elected and unelected” policy actors when they “interpret heightened media coverage as an indication of public concern warranting public action” (as cited in Ismaili
The focus on the Smith controversy throughout the coverage was therefore a likely trigger for the Government of Ontario to respond.

**Provincial Responsibility and Federal Inaction**

News articles used the language of “the province” when addressing wrongful conviction. Provincial governments were often called upon to respond to cases under their jurisdiction. This finding aligns with patterns in how wrongful conviction has been addressed; provincial governments have consistently reacted to wrongful conviction. For example, inquiries are usually conducted at the behest of the provinces and provincial governments have usually opted to award financial compensation to WCIs (Mijares 2012:4). In contrast, policy change from the federal government has been severely limited. The [Criminal] Code [of Canada] remains silent on matters such as the proper procedures for eyewitness identifications and the recording of interrogations (Roach 2012a:293-294). The emphasis on “the province” throughout the news articles can therefore be situated in these patterns of provincial responsibility and federal inaction. In the future, the federal government may not feel as pressured or involved in the solution.

**Symbolic Reform**

Loseke’s (2011) arguments about target populations and policy outcomes provide insight into how the depiction of WCIs may influence how the problem is addressed. Target populations, such as the victims or villains of the social problem, are considered when deciding the goals of policy. Drawing from Schneider and Ingram (1993), Loseke (2011:116) argues that the policy arena is affected by the construction of target populations and their perceived political, economic and social power. The construction of people involved in the social problem condition (positive
or negative constructions) and their perceived political power (high or low) may affect the success of claims-making campaigns (Loseke 2011:115-118). When “constructions are compatible with political power, policy decisions are likely to be straightforward” (Loseke 2011:117). The public will evaluate the victims as deserving of policy change and policy actors may benefit since they are pleasing a group with high political power. On the other hand, when constructions are incompatible with political power, policy decisions are likely to be symbolic and less straightforward (Loseke 2011:117).

To review, WCIs were constructed positively as the innocent and undeserving victims of severe harm. Since WCIs were an important focus throughout the coverage, policy outcomes are likely to be directed at assisting them. However, the depiction of WCIs makes it unlikely for policy actors to perceive them as powerful. The media coverage focused on one wrongful conviction at a time, which detracts from a view of WCIs as an established and organized group. In addition to WCIs, student groups and AIDWYC were often identified as integral parties when alleviating or addressing wrongful conviction, but these groups do not specifically push for broad policy change. Throughout the coverage, AIDWYC typically advocated for the specific cases on their agenda.

The incompatibility between the construction of the target population and their perceived political power suggests that wrongful convictions are likely to be addressed symbolically. Since WCIs and advocacy groups have low political power, they do not have the resources or agenda to push policies forward. Also, political actors may be disinterested in assisting a group of people who they do not feel pressured to please (Loseke 2011:117). Without political incentives, policymakers are likely to respond with symbolic policies rather than offering WCIs “real assistance” (Loseke, 2011:117). Symbolic policies are similar to what Rochefort and Cobb
(1994) define as “expressive” forms of policy (as cited in Loseke 2011:130). These are designed to make people feel good even though nothing tangible has been done (Loseke 2011:130).

**Excluding Systemic Injustice**

Although findings suggest that policy responses are likely to be symbolic, “the media can limit the bounds of what makes up the set of feasible alternative solutions to a policy problem” by highlighting some attributes and discrediting others (Wolfe et al. 2013:183; Gingras et al. 2010:283). Through the use of typifying stories, various legal causes were often depicted as contributing factors to wrongful conviction, such as evidence admissibility laws and uses of frail or faulty sciences. Wrongful conviction was most often typified as a problem of social structure (24% of the coverage) stemming from the court system. Therefore, the media’s tendency to be legal in focus may influence policy responses to the problem. For example, policy actors may opt to tighten legal procedures, such as police procedures in handling evidence. This is in contrast to the contention that social forces, such as racism or classism, may contribute to the problem. Bias towards the offender may not only affect the likelihood of wrongful conviction, but also the way that WCIs are treated once incarcerated, including barriers to overturning their conviction (Anderson 2015). Since news media highlighted legal causes and downplayed social forces, policy actors may be unlikely to take bias towards the offender into consideration.

5.3 The Impact of Media Depictions on WCIs and Wrongful Conviction Cases

News media’s depiction of wrongful conviction may affect how specific cases and WCIs are treated. The lack of coverage on pre-remedy stages has significant implications for WCIs and their campaigns of innocence because audience members are not made aware of the problem.
until it is already fixed. WCIs are unlikely to be represented in the media until their campaign is well-established, which is ironic because media attention may actually help to recruit supporters of their innocence.

Additionally, the “typical” wrongful conviction case used to define the problem was exclusionary to those wrongly convicted of minor offences. These cases or “stories” did not have the right features to grab audience attention (Jenkins 2013a:340), and were therefore omitted from the construction of the problem. Although it is difficult to calculate the system’s error rate, it is unlikely that wrongful convictions only exist in the confines of high-profile murder cases. After all, United Kingdom’s Criminal Cases Review Commission (CCRC) has detected and overturned several cases other than murder and sexual assault (Roach 2012b:1475).

Similarly, marginalized individuals and visible minorities are less likely to have their cases reach news headlines since they are not “ideal victims” (Christie 1986:18; Collins 2013:2). Even if their cases are reported, racism or bias, which may have contributed to their wrongful conviction, is unlikely to be acknowledged. While some campaigns against wrongful conviction are able to garner media interest, like the Truscott case, others “struggle to persuade the media to investigate or report on the case” depending on whether or not their “story” has the right features at the right time (Jenkins 2013a:340). However, the use of sensational cases is beneficial for audience members’ recognition of the problem (Loseke 2011:124; Best and Harris 2012:229; Iyengar and Simon 1993:367). Even if the cases discussed in news media do not encompass the experiences faced by WCIs, any coverage of wrongful conviction is beneficial for raising awareness of their existence.
Despite the potential social and policy implications of the current study, news media is not the only outlet for primary claims-makers to present the problem. Several other claims-making forums exist in the social problems process, which may also contribute to how the problem is perceived and addressed (Lowney 2008; Ismaili 2006:260). It is therefore important for future research to examine other discourses of wrongful conviction. This recommendation and others are discussed below.

5.4 Limitations and Future Research

When conducting future studies on this topic, researchers should supplement the social constructionist approach with more specific public policy theories that may help predict future policy outcomes. The current study provided insight into the media’s role as a significant “contextual feature” of policy decisions (Ismaili 2006:260), but other contextual elements should be further examined to allow for more direct and causal inferences between problem depiction and policy response. Such inferences were not necessary for the current study because initial data on the media’s depiction of wrongful conviction was identified as the primary goal. As discussed in chapter two, significant gaps in academic literature on wrongful conviction necessitated the collection of initial data from Canadian news media, outside of specific case-studies. By utilizing this initial data, future researchers can now analyze relationships between the variables examined. For example, bivariate or multivariate analyses can be conducted to see if constructions differ dependent on the specific case being discussed.

Newspapers are not the only source of information on wrongful conviction for the Canadian public. Future research should also examine other sources of media such as televised
news segments, social media websites (ex. Tumblr, YouTube, Twitter), video documentaries or advocacy websites (ex. AIDWYC’s website). Furthermore, more localized newspapers should be examined to allow for comparisons between city-wide and national newspapers. Letters to the editor, feature articles, and columns could also be included in future studies to assess any differences in the construction of wrongful conviction among different types of newspaper publications (Bates 2011). This could also include online responses to news articles made in the “comments” section of news websites. Next, a longer time period should be undertaken to examine the construction of the problem overtime. More specifically, future research would benefit from examining wrongful conviction in Canadian news media starting from the late 1980s, when media attention towards the phenomenon heightened based on a number of high-profile exonerations. Last, ethnographic investigations of advocacy groups and newspaper reporters should also be conducted to provide further information on claims-making activities and sources of authority in the construction of wrongful conviction (Shippee 2008:173).

5.5 Concluding Remarks

Wrongful conviction in news media is understudied in the Canadian context. The current study provided initial data on how three Canadian newspapers constructed the problem between 2008 and 2013. The results indicate that news media depicts wrongful conviction as legally-situated mistakes. Audience members and policy actors may not be motivated to respond to the problem because wrongful convictions are portrayed as exceptional and the system as self-

35 Although Shippee (2008) examined newspaper coverage starting from 1989 (the year of the first DNA exoneration), news articles were only collected from American newspapers. Moreover, the study could have started before 1989 so as to compare the amount and content of news coverage on wrongful conviction before and after the high-profile exonerations in the late 1980s related to the advent of DNA.
correcting. Also, the results suggest that case-specific and symbolic policies will continue to be the response from provincial governments. These findings have significant implications for WCIs and wrongful conviction cases. Media coverage of sensational cases is beneficial for bringing audience attention toward wrongful conviction. However, WCIs who do not fit within the parameters used to define the problem may ultimately be ignored by policy actors, the public, and the justice system.
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**APPENDIX A: THE SAMPLE**

**Table A. Descriptive Statistics of Sampled Newspaper Articles on Wrongful Conviction (N = 280)**

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<td>77</td>
<td>2008</td>
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<td>36</td>
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<td>or “wrongfully convicted”</td>
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<td></td>
<td>2009</td>
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<td>“miscarriage(s) of justice”</td>
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<td>23</td>
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<td>Newspaper</td>
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<td>Globe and Mail</td>
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<td>National Post</td>
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<td>Toronto Star</td>
<td>97</td>
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### APPENDIX B: PUBLICATION INFORMATION

**Table B. Publication Information of Sampled Newspaper Articles on Wrongful Conviction (N = 280)**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Newspaper</th>
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</tr>
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<tbody>
<tr>
<td>1 Top court tosses out murder conviction</td>
<td>Fine, Sean</td>
<td>The Globe and Mail</td>
<td>Nov 9, 2013</td>
</tr>
<tr>
<td>3 Searching for truth in death</td>
<td>Pagliaro, Jennifer</td>
<td>Toronto Star</td>
<td>Oct 28, 2013</td>
</tr>
<tr>
<td>4 Big moments in the big house</td>
<td>Cameron, Stevie</td>
<td>The Globe and Mail</td>
<td>Sep 30, 2013</td>
</tr>
<tr>
<td>5 Famed lawyer hailed for integrity, ethics</td>
<td>Gallant, Jacques</td>
<td>Toronto Star</td>
<td>Sep 25, 2013</td>
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<tr>
<td>6 'I want to fight for the ones that can't fight for themselves'</td>
<td>Casey, Liam</td>
<td>Toronto Star</td>
<td>Sep 23, 2013</td>
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<tr>
<td>7 Devil's advocate</td>
<td>Pevere, Geoff</td>
<td>The Globe and Mail</td>
<td>Sep 7, 2013</td>
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<td>8 Retrial ordered after judge flip flops</td>
<td>Brean, Joseph</td>
<td>National Post</td>
<td>Aug 14, 2013</td>
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<tr>
<td>9 Forensic pathologists to aid coroners</td>
<td>Ferguson, Rob</td>
<td>Toronto Star</td>
<td>Aug 8, 2013</td>
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<tr>
<td>10 Murdered Canadian's Puerto Rican wife arrested</td>
<td>Mcfadden, David</td>
<td>The Globe and Mail</td>
<td>Jul 2, 2013</td>
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<td>11 Forensic kinesiology seeking more respect</td>
<td>Appleby, Timothy</td>
<td>The Globe and Mail</td>
<td>Jun 1, 2013</td>
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<td>12 A scandal made in Quebec</td>
<td>Taylor, Kate</td>
<td>The Globe and Mail</td>
<td>Apr 5, 2013</td>
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<td>15 Play shines a light on Truscott case</td>
<td>Sher, Julian</td>
<td>Toronto Star</td>
<td>Feb 23, 2013</td>
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<td>16 French police have right DNA, don't know which twin did it;</td>
<td>Brean, Joseph</td>
<td>National Post</td>
<td>Feb 11, 2013</td>
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<td>Identical twins arrested over sexual assaults</td>
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<td>17 Made-from-TV movie</td>
<td>Farquharson, Vanessa</td>
<td>National Post</td>
<td>Feb 1, 2013</td>
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<td>18 Innocence lost, while those found guilty prevail</td>
<td>DeMara, Bruce</td>
<td>Toronto Star</td>
<td>Feb 1, 2013</td>
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<td>19 Central Park Five denied justice</td>
<td>Barnard, Linda</td>
<td>Toronto Star</td>
<td>Dec 26, 2012</td>
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<td>20 WEARING A FULL VEIL TO TESTIFY: SOMETIMES YES, SOMETIMES NO</td>
<td>Makin, Kirk</td>
<td>The Globe and Mail</td>
<td>Dec 21, 2012</td>
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<td>21 Top court struggles with niqab question</td>
<td>MacCharles, Tonda</td>
<td>Toronto Star</td>
<td>Dec 21, 2012</td>
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<td>22 Canadian under fire in feud Down Under</td>
<td>Makin, Kirk</td>
<td>The Globe and Mail</td>
<td>Dec 14, 2012</td>
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<td>23 Former top-court judge under fire</td>
<td>MacCharles, Tonda</td>
<td>Toronto Star</td>
<td>Dec 13, 2012</td>
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<td>24 Child killer wants verdict quashed</td>
<td>Edwards, Peter</td>
<td>Toronto Star</td>
<td>Dec 6, 2012</td>
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<td>25 The Swedish serial killer who never was</td>
<td>Day, Elizabeth</td>
<td>Toronto Star</td>
<td>Nov 3, 2012</td>
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<td>26 Court orders new look at manslaughter case</td>
<td>Small, Peter</td>
<td>Toronto Star</td>
<td>Oct 27, 2012</td>
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<td>27 'Our lives are hell on earth'</td>
<td>Rush, Curtis</td>
<td>Toronto Star</td>
<td>Oct 9, 2012</td>
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<td>28 Documentary in the service of justice</td>
<td>DeMara, Bruce</td>
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Man's 3rd murder trial ends with verdict of guilty
Baltovich case doesn't warrant inquiry, Attorney-General says
Officers withheld evidence, lawyer says
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Bernardo confession
Man accused in sex attack to be acquitted
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Let's find a better way to plan a city
Quebec officer a scapegoat, group for wrongly convicted says;
Man jailed for sex crimes he did not commit
Baltovich probe should focus on judge's bias, lawyer says
Potential inquiry gets mixed response
Did Baltovich case reveal more injustice?; Prison Interview;
Man jailed for attack committed by Paul Bernardo
Bentley now pondering probe of Baltovich case
Ontario justice lost in translation, lawsuit to allege
Widen DNA dragnet Blair; About 1 in250Canadians currently
have their genetic profiles in a database. Now, Toronto's police
chief wants a DNA sample from everyone charged with a
serious crime, not just those convicted of one because, he says,
DNA is 'a revolutionary crime-fighting tool.' But critics wonder
'Where do you draw the line?'
Accused pathologist a hapless scapegoat, judge told
New evidence may warrant rapist's appeal, prosecutor says
Pathologist Smith lays blame on system; Argues role in
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APPENDIX C: QUALITATIVE CODING SHEET

QUAL 1: Information on the News Source

Publication title:

Summary of the article:

Specific event/case reported on:

QUAL 2: Constructing WC as a Social Problem

Any factual or interpretative claims regarding WC as a social problem? In other words, how are wrongful convictions problematized? If more than one, number your observations and explain respectively:

*Any claims regarding the nature, extent, causes, or solutions to WC should be included- Even if WC are constructed as unsolvable; already solved, or a non-problem, etc.
QUAL 3: Wrongfully Convicted Individual/Wrongful Conviction Case

Any factual or interpretive claims pertaining to wrongfully convicted individual(s) or WC case(s):

QUAL 4: Addressing WC/Policy Recommendations

Any factual or interpretive claims made which focus on the causes of wrongful conviction or causal interpretations of WC:

Any factual or interpretive claims made which focus on addressing or treating wrongful conviction or wrongfully convicted individuals:

Any factual or interpretative claims made regarding WC policy?

Notes:
APPENDIX D: QUANTITATIVE CODING SHEET

QUAN 1: Information on the News Source

1. INDIC____  2. NEWS____  3. YEARPUB____  4. WRDCNT____
   5. MFRAME____  6. SOURCEINFO____

QUAN 2: Specific Wrongful Conviction Case(s) or Wrongfully Convicted Individual(s)

7. QUAN2____  8. TOTQUAN2____

Information on Wrongfully Convicted Individual

9. NAME________  10. CLMWCI____  11. AGEWCI____
12. AGEWCI2____  13. YEAR1____  14. YEAR2____
15. SEXWCI____  16. RACEWCI____  17. MINRTY____
18. SCLASS____  19. EDU____  20. ALCDRUG____
21. BROKEN____  22. CRIMREC____  23. CRIMRECV____
24. MENTAL____  25. ALTMARG____  26. LNGWCI____

Information on the Wrongful Conviction Case

27. CLMWCC____  28. OFFENCE____  29. STAGECJP____
30. EXON____  31. CRGWITH____  32. FINCOMP____
33. CRIMVIC____  34. SEXVIC____  35. AGEVIC____

QUAN 3: Characteristics of Wrongful Conviction and WCIs

36. CLMWCIG____  37. CLMWCCG____  38. EXTENT____
39. NATURE____
QUAN 4: Causes and Factors of Wrongful Conviction

40. CAUSEWC___

41. CAUSEWC1______________________________________________________________

42. CAUSEWC2______________________________________________________________

43. CAUSEWC3______________________________________________________________

44. CAUSEWC4______________________________________________________________

QUAN 5: Addressing Wrongful Conviction

45. TREAT___ 46. REC1___ 47. REC2___

48. REC3___ 49. REC4___ 50. PREV___

51. REAC___

QUAN 6: Variables Added Throughout the Coding Process

52. SMITH___ 53. HARDFAM ___ 54. BLKSTONE___

55. IMPINNO___ 56. SLOWJUS___ 57. WCIVICTIM___

58. WCIINNO___ 59. PROBTYPE___ 60. ROLEWC___
## APPENDIX E: CODEBOOK

### QUAN 1: Information on the News Source

1. First indicator found within the news article (INDIC):
   0) Wrongful conviction(s) OR wrongfully convicted
   1) Miscarriage of justice

2. Newspaper (NEWS):
   0) The Globe and Mail
   1) The National Post
   2) The Toronto Star

3. Year of publication (PUBYEAR):
   0) 2008
   1) 2009
   2) 2010
   3) 2011
   4) 2012
   5) 2013

4. Word Count (WRDCNT): _____

5. News frame for article (MFRAME):
   0) Episodic
   1) Thematic

6. Most cited source of information (SOURCEINFO):
   0) Police
   1) Defense Council (not affiliated with AIDWYC)
   2) Judges at any level
   3) Wrongfully convicted individual or their family/friends
   4) AIDWYC/Innocence Project(s)/Wrongful conviction advocate
   5) Victim(s) of the offence or their supporters
   6) Expert (ex. forensic pathologist)
   7) Prosecution
   8) AG/MJ at any level of government or their spokespeople
   9) Politicians (excluding the Minister of Justice)
   10) Legal academics/Professors of Law/Criminal Lawyers Association
   77) Other
   88) Journalist only
**QUAN 2: Specific Wrongful Conviction Case(s) or Wrongfully Convicted Individual(s)**

7. Mention of at least one wrongfully convicted individual or case of wrongful conviction (QUAN2)?
   0) No *If “No”, skip QUAN 2 and proceed to QUAN 3
   1) Yes *If “Yes”, complete QUAN 2
*If more than one case or individual is discussed within the same article: Fill out QUAN 2 on separate sheets for each wrongfully convicted individual that is mentioned and provide page #s in the header

8. Total number of QUAN 2 sections used for this article (TOTQUAN2): __________

**Information on the Wrongfully Convicted Individual:**

9. Name of wrongfully convicted individual (NAME): __________________

10. Any claims made regarding wrongfully convicted individual (CLMWCI):
    0) No
    1) Yes
    99) Not applicable- Article does not discuss wrongfully convicted individual

11. Age when wrongfully convicted (AGEWCI1): ____
    888) Unidentified- Article does not identify AGEWCI1

12. Age when at stage 2 of CJS or later (AGEWCI2): ____
    888) Unidentified- Article does not identify AGEWCI2
    999) Not applicable- Article discusses stage 0

13. Year when individual was wrongfully convicted (YEAR1): _____
    88) Unidentified

14. Year when at stage 2 of CJS or later (YEAR2): _____
    88) Unidentified
    99) Not applicable- Article does not discuss post-remedy process

15. Sex of the wrongfully convicted individual (SEXWCI):
    0) Male
    1) Female
    77) Other
    88) Unidentified- Article does not identify SEXWCI
16. Race (RACEWCI):
   0) Aboriginal individual
   1) Caucasian
   2) Black
   77) Other
   88) Unidentified- Article does not identify RACEWCI

17. Visible minority (MINRTY):
   0) No
   1) Yes
   88) Unidentified- Article does not identify MINORITY

18. Social class (SCLASS):
   0) Depicted as lower class
   1) Depicted as middle or working class
   2) Depicted as upper class
   88) Unidentified- Article does not identify SES

19. Highest level of education completed at the time of wrongful conviction (EDU):
   0) Below secondary school/high school
   1) Secondary school/high school
   2) Post-secondary school (college or university) or higher
   88) Unidentified- Article does not identify EDU

20. History of alcohol or drug abuse (ALCDRUG):
   0) No
   1) Yes
   88) Unidentified- Article does not identify ALCDRUG

21. Broken home or history of violence within the family? (BROKEN):
   0) No
   1) Yes
   88) Unidentified- Article does not identify BROKEN

22. Prior criminal record (CRIMREC):
   0) No
   1) Yes
   88) Unidentified- Article does not identify CRIMREC

23. Prior criminal record for violent crime(s) (CRIMRECV):
   0) No
   1) Yes
   88) Unidentified- Article does not identify CRIMRECV
24. Assessment of mental or intellectual capacity (MENTAL):
   0) Identified as having low mental or intellectual capacity
   1) Identified as having high mental or intellectual capacity
   88) Unidentified

25. Individual depicted as alternative or marginalized (ALTMARG):
   0) No
   1) Yes
   88) Unidentified

26. Overall language/tone of the article as it relates to the wrongfully convicted individual (LNGWCI):
   0) Positive connotations
   1) Negative connotations
   2) Both positive and negative connotations
   3) Neutral

**Information on the Wrongful Conviction Case**

27. Any claims made regarding specific wrongful conviction case (CLMWCC):
   0) No
   1) Yes
   2) Not applicable - Article does not discuss wrongful conviction case

28. Offence (OFFENCE):
   0) Murder
   1) Manslaughter
   2) Any counts of assault prosecuted as indictable
   3) Summary offence
   4) Infanticide
   77) Other
   88) Unidentified - Article does not mention OFFENCE

29. Stage of the criminal justice process that the article is discussing (if article discusses more than one stage, code the most recent stage discussed) (STAGECJP):
   0) Verdict of trial
   1) Post-conviction
   2) Remedy stage
   3) Post-remedy
   88) Unidentified
30. Conviction was overturned (OVERTURN):
   0) No- Article identifies that the conviction was not overturned
   1) Yes- Article identifies that the conviction was overturned
   88) Unidentified- Article does not mention EXON
   99) Not applicable- Article does not discuss the post-remedy stage

31. Case Outcomes (OUTCOME):
   0) Article identifies that a new trial, re-trial, or appeal will take place
   1) Article identifies that Crown charges are withdrawn
   2) Acquitted, exonerated, or factually innocent
   3) Stay of proceedings
   4) Unsure how Crown will proceed (i.e. conviction overturned then…)
   5) Alford plea
   88) Unidentified- Article does not mention CRGW
   99) Not applicable- Article does not discuss the post-remedy stage

32. Financial compensation given to wrongfully convicted individual (FINCOMP):
   0) No
   1) Yes
   2) Pursuing financial compensation
   77) Other
   88) Unidentified- Article does not mention FINCOMP
   99) Not applicable- Article is not discussing the post-remedy stage of the criminal justice process

33. At least one victim(s) of offence (CRIMVIC):
   0) No- Article identifies that the offence was victimless
   1) Yes- At least one victim mentioned at least once in the article
   88) Unidentified- Article does not mention VICTIM

34. Sex of the victim of offence (SEXVIC) (If more than one victim of offence, SEXVIC is coded for victim most discussed):
   0) Male
   1) Female
   88) Unidentified- Article does not mention SEXVIC (even if VICTIM is mentioned)
   99) Not applicable- Article does not mention VICTIM

35. Age of the victim of offence when offence was committed (AGEVIC) (if more than one victim of offence, AGEVIC is coded for the victim most discussed):
   888) Unidentified
QUAN 3: Characteristics of Wrongful Conviction and Wrongfully Convicted Individuals

36. Any claims made regarding wrongfully convicted individuals in general (CLMWCIG)?
   0) No
   1) Yes
   99) Not applicable- Article does not discuss wrongfully convicted individuals in general (potentially only an individual within specific case)

37. Any claims made regarding cases of wrongful convictions in general (CLMWCCG)?
   0) No
   1) Yes
   99) Not applicable- Article does not discuss wrongful conviction cases in general (potentially only a specific case)

38. The extent of wrongful conviction in Canada (EXTENT):
   0) Wrongful convictions are depicted as rare or uncommon
   1) Wrongful convictions are depicted as frequent or common
   88) Unidentified- Language towards wrongful conviction does not depict extent
   99) Not applicable- Article does not make claims regarding wrongful conviction in general

39. The nature of wrongful conviction within the criminal justice system (NATURE):
   0) Wrongful convictions are depicted as natural or expected within the criminal justice system
   1) Wrongful convictions are depicted as unnatural or unusual within the criminal justice system
   88) Unidentified- Language towards wrongful conviction does not depict nature
   99) Not applicable- Article does not make claims regarding wrongful conviction in general
QUAN 4: Causes and Factors of Wrongful Conviction

40. *Causal interpretation* of wrongful conviction case or WC in general (CAUSEWC):
   0) No- Article does not identify any causes, forces, or factors of wrongful conviction(s)
   1) One cause, force, or factor identified
   2) More than one cause, force, or factor identified

41. Cause(s) or factor(s) of wrongful conviction identified within the article (CAUSEWC1):
   0) Prosecutorial misconduct
   1) Tunnel vision
   2) Eyewitness misidentification or testimony
   3) Misuse of jailhouse informants or “snitches”
   4) Misleading circumstantial evidence
   5) Non-disclosure by the Crown or police
   6) False confession
   7) Coerced confession
   8) Misuse of expert testimony
   9) Reliance on trial court during the appeal process
   10) Inadequate legal aid funding
   11) Inadequate defense work
   12) Mishandling of alibi witnesses
   13) Issues with police note-taking
   14) Inadequate retention of police notebooks, Crown files, trial exhibits or evidence
   15) Racism
   16) Bias towards the offender (other than race but including class bias towards the poor or uneducated; gender bias; disability bias; ageist bias)
   17) Sensationalism of crimes by the media
   18) Impact of crime control strategies
   19) Public outcry or pressure for conviction
   20) Un-validated or improper use of forensic science
   77) Other
   99) Not applicable- Article does not discuss any causes or factors of WC

42. Second cause/factor of wrongful conviction identified within the article (CAUSEWC2):
   *Same coding for Question 41 to be applied

43. Third cause/factor of wrongful conviction identified within the article (CAUSEWC3):
   *Same coding for Question 41 to be applied

44. Fourth cause/factor of wrongful conviction identified within the article (CAUSEWC4):
   *Same coding for Question 41 to be applied
QUAN 5: Addressing Wrongful Conviction

45. Any claims made which focus on addressing or treating wrongful conviction or wrongfully convicted individuals (TREAT):
   0) No
   1) Yes, at least one recommendation made
   2) Yes, more than one recommendation made

46. Recommendation(s) made or discussed regarding (REC1):
   0) Forensic evidence
   1) Use and limitations of polygraphs
   2) Jailhouse informants
   3) Training or educating police
   4) Recording interviews with witnesses or suspects
   5) Treatment of witnesses (ex. special care with youth)
   6) Avoidance of tunnel vision
   7) Limited use of criminal profiling
   8) Comprehensive and consistent retention policy for police notebooks or note-taking
   9) Preservation of exhibits
   10) Use and limitations of eyewitness identification
   11) Training or educating Crown
   12) Prosecution’s use of evidence that is not “strong” (ex. should call evidence that is inherently unreliable; should not call evidence that is reasonably understood as untrue)
   13) Crown advocacy
   14) Crown disclosure
   15) Independent review of wrongful convictions
   16) Relationship between Crown and defense
   17) Sensitivity to biases towards visible minorities
   18) Unbiased treatment of accused within court
   19) Training or education for the jury
   20) Rules of appeal (ex. fresh evidence; more opportunities to intervene)
   21) Hear opinions of WCI/voice their concerns
   22) Compensation
   23) Importance of clearing name/importance of innocence revealed
   24) More opportunities to fully acquit or deem factually innocent (as opposed to Alford plea, or stay of proceedings, or Crown withdrawing charges)
   25) Process of appeal is long/case not heard for a long time/delays
   26) Accountability
   77) Other
   88) Unidentified
   99) Not applicable- Article does not discuss any recommendations
47. Second recommendation discussed within the article (REC2):
*Same coding for Question 46 to be applied

48. Third recommendation discussed within the article (REC3):
*Same coding for Question 46 to be applied

49. Fourth recommendation discussed within the article (REC4):
*Same coding for Question 46 to be applied

50. Recommendation(s) made regarding the prevention of wrongful conviction (PREV):
   0) No, but article discusses recommendations
   1) One recommendation made regarding prevention
   2) More than one recommendation made regarding prevention
   99) Not applicable- Article does not discuss recommendations

51. Recommendation(s) made which are reactive to wrongful conviction (REAC):
   0) No, but article discusses recommendations
   1) One recommendation made that is reactive
   2) More than one recommendation made that is reactive
   99) Not applicable- Article does not discuss recommendations
### QUAN 6: Variables Added Throughout the Coding Process

52. Does the article mention Dr. Charles Smith? *(SMITH)*
   - 0) No
   - 1) Yes

53. Does the article mention hardships on WCI’s family? *(HARDFAM)*
   - 0) No
   - 1) Yes

54. Does the article mention the Blackstone principle or related ratios? *(BLKSTONE)*
   - 0) No
   - 1) Yes

55. WCI stresses importance of being recognized as innocent? *(IMPINNO)*
   - 0) No
   - 1) Yes

56. Court delays or long remedy process mentioned? *(SLOWJUS)*
   - 0) No
   - 1) Yes

57. Use of the word “victim” to describe WCIs *(WCIVICTIM)*
   - 0) No
   - 1) Yes

58. Use of the word “innocent” to describe WCIs *(WCIINNO)*
   - 0) No
   - 1) Yes

59. Type of problem (problem of…) *(PROBTYPE)*
   - 0) Social structure
   - 1) Social Forces
   - 2) Individual
   - 3) More than one typification
   - 4) Unidentified

60. Role or focus of wrongful conviction within the article *(ROLEWC)*
   - 0) Tangential
   - 1) Integral
   - 2) Important but not the main focus
APPENDIX F: CODING MANUAL

This manual pertains to:

- Qualitative Coding Sheet
- Quantitative Coding Sheet
- Codebook

Coding Protocol:

- The Qualitative Coding Sheet and the Quantitative Coding Sheet must be filled out and numbered for each article analyzed.
- Chart 1 provided below defines codes used within both coding sheets. These are italicized within the coding sheets. Understanding these definitions before coding is necessary*.

Qualitative Coding Protocol:

- Provide notes wherever applicable. Although there are questions provided, the qualitative analysis is meant to be as open as possible. Therefore, notes on any aspect of the article are to be written on the back of QUAL 1.

Quantitative Coding Protocol:

- Use the Codebook to code for each variable within the Quantitative Coding Sheet.

<table>
<thead>
<tr>
<th>#</th>
<th>Code</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Factual claim</td>
<td>Purport to describe the world and are promoted as “objective” facts. They are descriptions, typifications, and assertions regarding the extent and nature of conditions in the physical world (Surette, 2007:35-36).</td>
</tr>
<tr>
<td>2</td>
<td>Interpretive claim</td>
<td>Statements that focus on the meaning of events. They either offer an explanation of why a set of factual claims is as described, or they offer a course of action that needs to be followed to address the conditions or events described in the factual claims (Surette, 2007:36).</td>
</tr>
<tr>
<td>3</td>
<td>Wrongful conviction</td>
<td>The current or previous conviction of a person for a crime he or she did not commit, or where at least one individual (including the accused) has speculated an unsafe conviction, or claimed he or she did not commit the crime but has been convicted.</td>
</tr>
<tr>
<td>4</td>
<td>Language</td>
<td>Language is coded as positive when the subject of analysis is discussed in a positive light. This includes “any language that praises or humanizes the subjects by associating them with positive roles or laudable personal qualities” (Hirschfield &amp; Simon, 2010:163).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Ex. An article may discuss a wrongfully convicted individual as innocent, courageous or may be sympathetic towards them. Language is coded as negative when the subject of analysis is discussed in a negative light. Ex. An article may discuss a wrongfully convicted individual as culpable.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Tone</td>
<td>Coded when personal values of journalists penetrate into how the case is described. This is evidenced when powerful adjectives and nouns are used in replacement of neutral terms that would similarly describe the event (Gans, 1979).</td>
</tr>
<tr>
<td>6</td>
<td>Causal interpretation</td>
<td>Information on the causes, forces, or factors creating the problem. Ex. misuse of expert evidence; prosecutorial misconduct; eyewitness misidentification</td>
</tr>
<tr>
<td>7</td>
<td>Preventative</td>
<td>Any recommendation which aims to prevent or aid in the prevention of wrongful conviction (ex. recommendations regarding false confessions; recommendations regarding prosecutorial misconduct during trial)</td>
</tr>
<tr>
<td>8</td>
<td>Reactionary</td>
<td>Any recommendation related to the treatment of wrongfully convicted individuals or cases of wrongful conviction after they have occurred (ex. recommendations regarding appeal processes after an individual has been wrongfully convicted; recommendations regarding financial compensation once released)</td>
</tr>
<tr>
<td>9</td>
<td>Episodic</td>
<td>Episodic frames depict public issues in terms of “concrete instances or specific events” (Iyengar and Simon, 1993:369).</td>
</tr>
<tr>
<td>10</td>
<td>Thematic</td>
<td>Thematic frames depict public issues “in some general or abstract context” which provide more background information and usually include interpretive analyses (Iyengar and Simon, 1993:369).</td>
</tr>
<tr>
<td>11</td>
<td>Most cited source of information</td>
<td>The source most cited throughout the article. Includes reference to the source or paraphrasing (ex. police said) as well as direct quotes.</td>
</tr>
<tr>
<td>12</td>
<td>Lower class</td>
<td>Coded for when a wrongfully convicted individual is depicted as lower class, poor, homeless, unemployed, receiving welfare, employed within a low-paying wage job, or lacking financial security.</td>
</tr>
<tr>
<td>13</td>
<td>Middle class</td>
<td>Coded for if individual is depicted as middle class, or employed within an average job.</td>
</tr>
<tr>
<td>14</td>
<td>Upper class</td>
<td>Coded for if individual is depicted as upper class, well-off, rich, or wealthy</td>
</tr>
<tr>
<td>15</td>
<td>Verdict of trial</td>
<td>Article is discussing verdict of trial within 60 days after conviction or is discussing sentencing. Ex. campaign for innocence within 60 days after verdict</td>
</tr>
<tr>
<td>16</td>
<td>Post-conviction</td>
<td>Article is discussing a case any time after 60 days of the conviction but before the verdict of appeal is handed down. Ex. appeal processes before case is officially overturned or charges are withdrawn; campaign for innocence after 61 days after verdict</td>
</tr>
<tr>
<td>17</td>
<td>Remedy</td>
<td>Article is discussing a case where the conviction has been appealed and verdict reached at least once but with further pursuit by Crown or appellant (Ex. new trial, re-trial or further appeal planned)</td>
</tr>
<tr>
<td></td>
<td>Post-remedy</td>
<td>Article is discussing a case where there is no further pursuit by Crown or appellant in terms of the criminal court process (i.e. acquitted, exonerated or factually innocent) Ex. Compensation</td>
</tr>
<tr>
<td>---</td>
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<td>---</td>
</tr>
<tr>
<td>19</td>
<td>Social structure</td>
<td>Coded for if the article constructs wrongful conviction as a problem of social structure. Loseke (2011:72) provides the following examples for social structure: “the ways family, the social welfare system, schools or the economy are organized”. Examples for the current analysis: flawed pathology system; flawed system for reviewing convictions</td>
</tr>
<tr>
<td>20</td>
<td>Social forces</td>
<td>Coded for if the article constructs wrongful conviction as a problem of social forces. Loseke (2011:72) provides the following examples for social forces: “ageism, prejudice, racism, homophobia”. Examples for the current analysis: systemic racism; power of experts to influence a fair trial; community pressure to convict</td>
</tr>
<tr>
<td>21</td>
<td>Individual</td>
<td>Coded for if the article constructs wrongful conviction as an individual problem. Loseke (2011:72) provides the following examples for causes which can be constructed as inside individuals: “behavior, personality, or beliefs”. Examples for the current analysis: blames police; blames forensic pathologist</td>
</tr>
<tr>
<td>22</td>
<td>Role of wrongful conviction</td>
<td>Abu-Laban &amp; Trimble (2006) use “tangential”, “integral” and “important but not the main focus” to code for the role of Muslims in the coverage examined for the study. This coding was borrowed for the current study.</td>
</tr>
<tr>
<td>23</td>
<td>Tangential</td>
<td>Coded for if wrongful conviction was only discussed as a tangent with respect to the main focus of the news article. For example, the details about the life of a wrongfully convicted individual with no direct connection to their wrongful conviction case.</td>
</tr>
<tr>
<td>24</td>
<td>Integral</td>
<td>Coded for if wrongful conviction is integral to the main focus of the news article. For example, article is discussing a wrongful conviction case.</td>
</tr>
<tr>
<td>25</td>
<td>Important but not the main focus</td>
<td>Coded for if wrongful conviction is not the main focus but is important to the development or understanding of news article. For example, article is discussing the death penalty and mentions the possibility of convicting the innocent.</td>
</tr>
</tbody>
</table>