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Methodology for Assessing Lost Earning Capacity in Instances of Wrongful Imprisonment

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Overview



Part One

US Incarceration Statistics
Incidence of Wrongful Incarceration
Barriers to Labor force Reentry
Employment Rates
Mitigation Efforts



Part Two

Methodology for Assessment of Lost Earning Capacity
Assessing the Value of Prison Training Programs
Career Development Arc
Academic Achievement
Work History
Other factors



Part Three


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US Incarceration Statistics


- State and Federal Prisons**
1,489,363 persons at the end of 2017
80,900 persons held in local jails
1,000 persons held in US military prisons
- State and Federal: Offense Type & Demographics**
Nearly half of all federal offenders serving time for drug-trafficking offenses
50% of all persons held in local jails in 2017, 2x as many white females (60,269) were incarcerated as black (19,600) or Hispanic (19,400)
- State and Federal: Length of Incarceration**
Federal: Mean 1.6 years; Median 1.3 years (DOJ, 2016)
State Prisons: 54% of persons incarcerated for more than 1 year
Local jails: average length of incarceration was 26 days in 2017
- Post Release Statistics**
620,000 persons are released from incarceration annually
Approximately 1/3 re-offend (recidivism)
Unemployment rate is consistently around 27%


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Incidence of Wrongful Incarceration

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Approximately 300 persons have been exonerated in the past two decades for offenses committed in the pre-DNA era (Innocence Project, 2016).

Research is focused in cases/offenses involving the collection of DNA evidence. The actual number of persons wrongly incarcerated is unknown.
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Legal appeals and re-processing of DNA takes years
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Persons who are exonerated are often not released immediately

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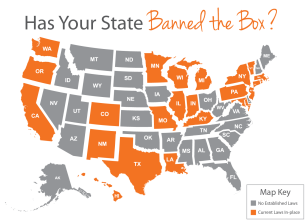
Barriers to Labor Force Reentry

- Post-release probation or parole requirements
- Interrupted Employment History
- Very poor and non-competitive vocational training
 - GED and ESL classes
 - "Culinary Arts" certificates
 - Industrial Sewing certificates
 - Other: i.e. Building trades and HVAC
- Stigma

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Impact of Ban the Box (BTB)

- 22 States presently have BTB (August 2019)
- Employer call-back rates increased by 45% for African-Americans
- Among employers who regularly conduct background checks, race was not a significant factor
- Among all other employers, minorities still experienced disproportionate lower call-back rates compared to white job applicants



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Methodology for Assessment of Lost Earning Capacity

- Vocational Assessment
 - Vocational Interview
 - Interviewing Collateral Sources (i.e. family, social workers, etc.)
 - Document Review
 - Education Records
 - Incarceration Records
 - Treatment Records
 - Employment Records & Wage History
 - Job Seeking Efforts

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Methodology for Assessment of Lost Earning Capacity

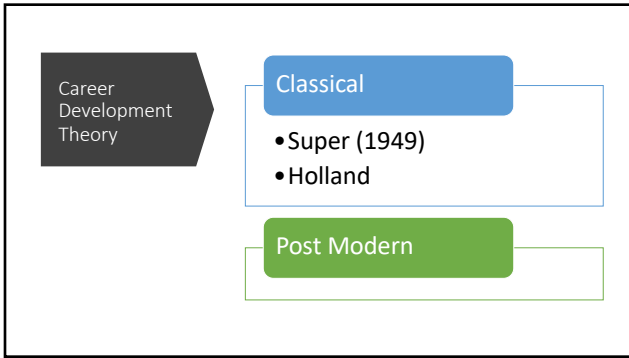
- Testing
 - Interest Testing
 - Consideration of Career Development Theories
 - Self-Directed Search (SDS)
 - Career Ability Placement Survey (CAPS/CDPS battery)
 - DOL Online (based upon Holland Codes)
 - Intelligence Testing
 - Non-Verbal IQ
 - Full Scale IQ
 - Aptitude Testing
 - CAPS/CDPS
 - Wonderlic Personnel Test (WPT)
 - Many others
 - Achievement Testing
 - Wide Range Achievement Test (WRAT)
 - Computerized (i.e. typing, MS Word)
 - Many others
 - Personality
 - Myers-Briggs (MBTI)
 - Many others

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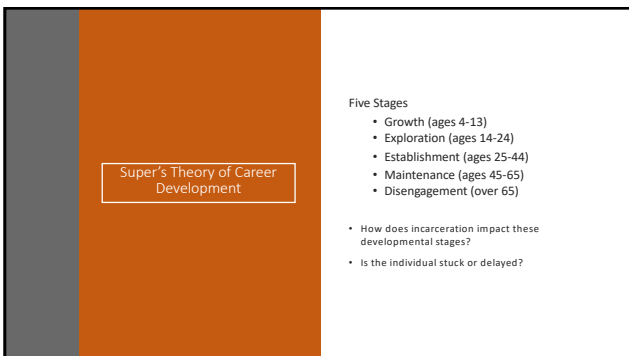
Methodology for Assessment of Lost Earning Capacity

- Work History
 - Youth employment
 - Work activity while incarcerated
 - Competitive Employment
 - Note reasons for part-time vs. full-time
 - Note reasons for job movement
 - Job seeking efforts (i.e. independent, networking, DOL centers, VR agencies, Not-for-profit organizations)
 - Hobbies and Volunteer Work

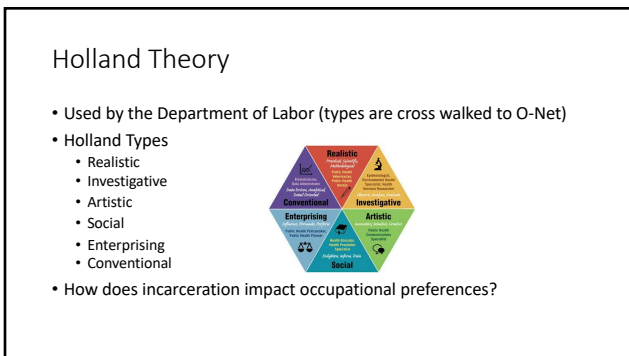
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Case Study

Bobby Johnson
Convicted of Murder in 2007
Sentenced to 38 years
Exonerated 2015



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Case Study

Bobby Johnson was just 16 years of age at the time of the crime

A witness reported that the two men involved in the crime could be found at a local park.

One of the two men later identified Bobby Johnson as being involved in the murder

Bobby Johnson with an IQ of 69 was interrogated without legal representation or his mother present

It was later learned (in 2013) that the two police detectives had a pattern of coercing witnesses and are now serving time in Federal prison.

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