

Innocent Lives in the Balance

The real risk of executing the innocent

Since 1973, at least 160 people have been freed from death row after evidence of innocence revealed that they had been wrongfully convicted. That's almost one person exonerated for every ten who've been executed. Wrongful convictions rob innocent people of decades of their lives, waste tax dollars, and re-traumatize the victim's family, while the people responsible remain unaccountable.

What we have learned in the DNA era

- ♦ Hundreds of DNA exonerations reveal that murder cases are often riddled with problems: mistaken eyewitnesses, bad lawyers, shoddy forensics, unreliable jailhouse snitches, coerced confessions, and more.
- ♦ DNA cannot solve these problems – it can only tell us how bad they are. DNA evidence exists in just 5-10% of criminal cases – far fewer than one would think from TV crime shows like CSI.
- ♦ In those few cases where DNA evidence is available, courts can block access to DNA testing even when it could exonerate someone. Furthermore, scientific evidence is only as good as the people doing the testing – and crime labs from Baltimore to Oklahoma City have come under fire for errors and even fraud in their forensics.

“Despite the best intentions of law enforcement, prosecutors, defense attorneys, judges and jurors, innocent people have been convicted and sentenced to death. The margin for error with the death penalty is too great.”

– Former CA Police Chief
Ray Samuels

CASE IN POINT

Ray Krone was sentenced to death for rape and murder in Arizona even though DNA found on the victim did not match him. The state argued against having the DNA submitted to the database since the jury found him guilty even without physical evidence. A decade later, a crime lab worker ran the DNA through a database on his own, without a court order, and uncovered the identity of the person who actually committed the crime.

Despite the best intentions, we can't be right 100% of the time

- ♦ The risk of executing an innocent person is not limited to cases of incompetence or corruption. Despite their best efforts, human beings are imperfect. In a capital case, even one small mistake can be deadly.
- ♦ Contrary to popular belief, the appeals process is not designed to catch cases of innocence. It is simply to determine whether the

original trial was conducted properly. Most exonerations came only because of the extraordinary efforts of people working *outside* the system – pro bono lawyers, family members, even students.

- ♦ Wrongfully convicted people have spent up to 33 years on death row, or come within hours of execution, before the truth came to light. Any effort to streamline the death penalty process or cut appeals will only increase the risk that an innocent person is executed.
- ♦ One of most comprehensive state death penalty studies in the nation recommended 85 reforms that were essential to decrease the risk of wrongful executions. Not a single death penalty state has even a majority of those reforms in place.

“I spent 17 years, eight months and one day on death row. I was not saved by the system. I was saved in spite of the system.”

*– Juan Roberto Meléndez
exonerated in Florida
in 2002*

The wrong man: Stories of a broken system

- ♦ *Frank Lee Smith* was sentenced to death in Florida on the testimony of a single witness. No physical evidence tied him to the crime. Four years later, the same witness saw a photo of a different man and realized she had made a mistake. DNA tests later confirmed that Smith was innocent, but it was too late. He had died in prison of pancreatic cancer.
- ♦ *Cameron Todd Willingham* was executed in Texas in 2004 for setting fire to his home, killing his three children. Experts now say that the arson theories used in the investigation are scientifically invalid. Willingham may very well have been executed for an accidental fire.
- ♦ *Gary Gauger* was sentenced to die in Illinois for the murder of his parents. Police questioned him for 18 hours, depriving him of sleep, food, or drink. They convinced him that he had blacked out and that’s why he didn’t remember killing his parents. He was sentenced to die on the basis of this “confession.” An unrelated investigation later uncovered the people who actually committed the crime, and Gauger was exonerated.
- ♦ *Kirk Bloodsworth*, a former U.S. marine, was sentenced to death in 1985 for the murder of nine-year-old Dawn Hamilton in Maryland. He proclaimed his innocence from the start but when he was granted a new trial his prosecutors withheld evidence and his second trial also resulted in conviction. From jail Bloodsworth found out about a new innovation in genetic fingerprinting. He persuaded his lawyer to try to get it. They did and, after nine years in prison, Kirk Bloodsworth became the first death row inmate exonerated by DNA.

We’ve learned a lot about the death penalty in the last 40 years. We now know that innocent people are sentenced to die. When a life is on the line, one mistake is one too many. Can we afford the risk?