



Innocent Lives in the Balance

The real risk of executing the innocent

Since 1973, at least 160 people have been freed after evidence revealed that they were sentenced to die for crimes they did not commit. That's more than one innocent person exonerated for every ten who have been executed. Wrongful convictions rob innocent people of decades of their lives, waste tax dollars, and retraumatize the victim's family, while the people responsible remain unaccountable.

What We've 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.
- ♦ Some forensic evidence used in cases is now known to be based on junk science. The FBI announced that experts exaggerated the value of hair analysis in hundreds of cases, 32 of which resulted in a death sentence. Defendants in 9 of those cases have been executed. Finger print, bite mark, ballistics, and fire pattern analyses have also lost credibility.
- ♦ In cases where DNA evidence is available, courts can block access to testing, even when it could exonerate someone. Furthermore, scientific evidence is only as good as the people testing it. 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.”

*– Ray Samuels, former
Police Chief of Newark,
California*

CASE IN POINT

Ray Krone was sentenced to death in Arizona for rape and murder, even though *DNA found on the victim wasn't his*. The state argued against having the DNA submitted to the database since the jury convicted him even without physical evidence. A decade later, a crime lab worker ran the DNA through the database on his own, without a court order, and found 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 those cases where lawyers sleep through trials. Despite the best efforts of police, prosecutors, judges, juries, witnesses, and defense attorneys, mistakes can and will happen. In a capital case, even one small mistake can be deadly.

- ◆ Contrary to popular belief, the appeals process is not designed to catch many of these mistakes. Most exonerations come only because of the extraordinary efforts of people working *outside* the system – pro bono lawyers, family members, even students.
- ◆ Innocent people have spent up to 39 years awaiting execution, 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 will be executed.
- ◆ One of the most extensive state death penalty studies recommended 85 reforms that were essential to decrease the risk of wrongful executions. Not a single state has implemented even a majority of those reforms.

“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 Person: Stories of a Broken System

- ◆ ***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
- ◆ ***Henry McCollum*** and ***Leon Brown*** were sentenced to death in 1983 for murdering an 11-year old girl in North Carolina. Though no physical evidence linked them to the crime, officials coerced false confessions from McCollum and Brown, both teenagers with intellectual disabilities. Before DNA exonerated them, Supreme Court Justice Antonin Scalia held up the case as justification for capital punishment.
- ◆ ***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 of pancreatic cancer in prison.
- ◆ ***Troy Davis*** was executed in Georgia in 2011 for the murder of police officer Mark Allen MacPhail. No physical evidence ever tied him to the crime. His conviction was based on the testimony of nine witnesses – seven of whom later recanted or changed their testimony. Of the two who kept their testimony, one has long been suspected of committing the murder himself.

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?

Sources available at ejusa.org