

# Fact Sheet: Innocent People Are Executed

“Perhaps the bleakest fact of all is that the death penalty is imposed not only in a freakish and discriminatory manner, but also in some cases upon defendants who are actually innocent.”

~ Supreme Court Justice William J. Brennan Jr., 1994

## INNOCENT PEOPLE ARE ON DEATH ROW AND HAVE BEEN EXECUTED:

- More than 114 people have been exonerated from death row since 1972, including 23 from the state of Florida alone. (Death Penalty Information Center)
- The system of capital punishment is flawed at both the state and federal level. On the federal level, 3.5% of persons whom the Attorney General has attempted to execute have been innocent. In one example of state-level problems, Illinois (prior to Governor Ryan’s blanket commutation) had an error rate of at least 4.5%. (American Civil Liberties Union)
- A study identified 23 instances in the last century in which a person with an extraordinarily strong case of innocence had been executed by the government. (H. Bedeau & M. Radelet, “Miscarriages of Justice in Potentially Capital Cases” Stanford Law Review, 1987) Since 1987 8 cases have been reported.

## RECENT CASES OF MISTAKEN EXECUTION:

- Texas executed Gary Graham on July 22, 2000 despite claims that he was innocent. Graham was 17 when he was charged with the 1981 robbery and shooting of Bobby Lambert outside a Houston supermarket. He was convicted primarily on the testimony of one witness, Bernadine Skillern, who said she saw the killer's face for a few seconds through her car windshield, from a distance of 30 -40 feet away. Two other witnesses, both who worked at the grocery store and said they got a good look at the assailant, said Graham was not the killer but were never interviewed by Graham's court appointed attorney, Ronald Mock, and were not called to testify at trial. Three of the jurors who voted to convict Graham signed affidavits saying they would have voted differently had all of the evidence been available. ([www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org))
- Florida convicted Leo Jones on March 28, 1998 - Jones was convicted of murdering a police officer in Jacksonville, Florida. Jones signed a confession after several hours of police interrogation, but he later claimed the confession was coerced. In the mid-1980s, the policeman who arrested Jones and the detective who took his confession were forced out of uniform for ethical violations. The policeman was later identified by a fellow officer as an "enforcer" who had used torture. Many witnesses came forward pointing to another suspect in the case.
- Texas convicted David Spence on April 3, 1997. Spence was charged with murdering three teenagers in 1982. He was allegedly hired by a convenience store owner to kill another girl, and killed these victims by mistake. The convenience store owner, Muneer Deeb, was originally convicted and sentenced to death, but then was acquitted at a re-trial. The police lieutenant who supervised the investigation of Spence, Marvin Horton, later concluded: "I do not think David Spence committed this crime." Ramon Salinas, the homicide detective who actually conducted the investigation, said: "My opinion is that David Spence was innocent. Nothing from the investigation ever led us to any evidence that he was involved." No physical evidence connected Spence to the crime. The case against Spence was pursued by a zealous narcotics cop who relied on testimony of prison inmates who were granted favors in return for testimony.
- Virginia executed Joseph O'Dell on July 23, 1997 despite the existence of DNA evidence that could have proved O'Dell's innocence. The courts refused to consider this new evidence because Virginia law says that any evidence found after 21 days is inadmissible in proving the innocence of a convicted person.

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- Texas executed Jesse Jacobs on January 4, 1995 despite the prosecution's admission that arguments they made at Jacobs' trial were false. Jacobs was convicted after the state introduced evidence that he, rather than his co-defendant, pulled the trigger on the day of the murder. At the subsequent trial of the co-defendant, the state reversed its story and said it was the co-defendant, not Jacobs, who pulled the trigger. The prosecution vouched for the credibility of Jacobs' testimony that he did not commit the shooting and did not even know that his co-defendant had a gun. Jacobs' co-defendant was also convicted, though he was not sentenced to death.
- Texas executed Robert Nelson Drew on August 2, 1994 after refusing to give him a new hearing after another man signed an affidavit in which he confessed to the murder, thereby exonerating Drew.
- Texas executed Leonel Herrera in 1993 despite compelling evidence of his innocence. A former Texas judge submitted an affidavit stating that another man had confessed to the crime for which Herrera was facing execution. Numerous other pieces of new evidence also threw doubt on his conviction. According to the Supreme Court, however, that proof was not sufficient to stop his execution because of the late stage of his appeal.
- Virginia executed Roger Keith Coleman in 1992. Coleman's appellate attorneys misread the statute governing the time frame for submitting an appeal and filed their brief one day too late. The Virginia state courts held that the one-day-late filing was the equivalent of no filing at all and refused to review his issues. The federal courts subsequently held that Coleman could not raise a federal claim because he had waived his state review. Finally, the Supreme Court determined that Coleman could not complain that it was his attorneys who erred because he was not entitled to an attorney in the first place. No court ever fully reviewed the evidence of his innocence prior to his execution.

### **CAPITAL CASES INVOLVE A HEIGHTENED RISK OF ERROR:**

- The death penalty has become a politicized issue that is commonly used in campaigns for judges and district attorneys who are elected to their positions. Those judges and prosecutors are motivated to sentence as many defendants to death as they possibly can to maintain a record of being "tough on crime."
- Due to the high emotions surrounding murder cases, there is great pressure on law enforcement officials to solve homicides quickly. Such pressure may lead to misconduct by the investigators and prosecutors.
- Murders frequently lack eyewitnesses, forcing the prosecutors to use less reliable sources for evidence, such as jailhouse snitches, accomplices looking for reduced sentences and coerced confessions from defendants.
- During the jury selection process, any person opposed to capital punishment is dismissed by the prosecutors. Not only do these "death-qualified" juries exclude an extremely large proportion of the population, but they are also more likely to convict during the guilt/innocence phase of the trial. (S. Gross, "The Risks of Death: Why Erroneous Convictions are Common in Capital Cases," 1996)
- Due to the scarce resources of a criminal defendant's attorneys, they often must decide whether it would be better to risk the client's conviction, yet save his life, by spending more time preparing for the sentencing phase. If this preparation occurs at the expense of an investigation that could yield evidence that would produce an acquittal, it heightens the risk of a wrongful conviction. (R. Dieter, "Innocence and the Death Penalty: The Increasing Danger of Execution the Innocent," Death Penalty Information Center, 1997).

Information from the website of the National Coalition to Abolish the Death Penalty, (202) 543-9577 [www.ncadp.org](http://www.ncadp.org)  
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2-15-05