

Additional Information on the Innocence Movement and the Death Penalty in the United States

The Innocence Movement

In 1989, Gary Dotson, who had been convicted of rape in Chicago and served eight years in prison, became the first prisoner in the United States whose conviction was overturned based on DNA evidence. In the ensuing years, post-conviction DNA testing has been used extensively to exonerate the wrongfully convicted and has provided conclusive proof that the American criminal justice system sometimes fails and mistakenly convicts innocent people. In states that employ capital punishment, wrongful convictions can have grave consequences. While only approximately 20% of all serious criminal cases involve biological evidence that could be used to convict or exclude a suspect, post conviction DNA testing has roused political action, and has raised awareness in factors such as mistaken eyewitness identification, racial bias, incompetent legal counsel and police and prosecutorial misconduct, all of which can lead to wrongful convictions.

Many of the exonerees featured in Taryn Simon's series *The Innocents* were freed with legal help from the Innocence Project at the Benjamin N. Cardozo School of Law, New York. Inspired by the successes of this project and others including Northwestern University's Center on Wrongful Convictions, over the past decade over thirty "innocence projects" have sprung up around the nation. Most of these organizations are based on the same basic model. They are not-for-profit institutions that use volunteers, usually law and journalism students, who work under the supervision of professionals to review cases of people who claim to have been wrongfully convicted of serious crimes. They further provide legal representation to the indigent and advocate for changes in the criminal justice system. While most innocence projects are unable to meet the demand for their services and have a large backload of cases, the innocence movement seems to be having an effect. Public opinion in support of the death penalty has reached a twenty-year low and since 2000 many states have passed legislation banning or strictly limiting the use of the death penalty.

The Death Penalty in Illinois: Recent Developments

Between 1977, when the death penalty was reinstated in the US after a five year moratorium, and 2000, Illinois executed twelve Death Row inmates. During that same period, the state also freed thirteen Death Row inmates who were ultimately found innocent of the crimes for which they had been convicted. In 1998, the Northwestern University School of Law hosted a national conference on wrongful convictions that brought together twenty-eight former prisoners from across the US—some who had come within hours of execution---who had been sentenced to death for crimes they did not commit. The conference was the brainchild of Northwestern Law Professor Lawrence C. Marshall, who had recently won three separate high-profile cases proving the innocence of Rolando Cruz, Gary Gauger and Willie Raigne, each of whom had been wrongly convicted of murder. The national media extensively covered the conference, raising public awareness of the innocence issue, especially in death penalty cases. Following the conference, in 1999, Northwestern founded the Center on Wrongful Convictions to identify and rectify wrongful convictions and other serious miscarriages of justice.

That same year, the Chicago Tribune published several articles exposing serious problems in the criminal justice system that affected scores of Illinois capital cases. Aware of the mounting evidence, in 2000 Illinois Governor George Ryan, who had been a staunch supporter of capital punishment, suspended the use of the death penalty until he said that he could be certain that no innocent person would face execution in Illinois. Illinois became the first state with a moratorium on state executions and a focus of international attention on the issue of death penalty reform. In 2003 Ryan commuted the sentences of all of Illinois' 156 death row inmates to life in prison and issued a comprehensive list of suggested reforms. He stated that, "Our capital system is haunted by the demon of error: error in determining guilt and error in determining who among the guilty deserves to die..." He further claimed that the innocence issue "is shaping up to be one of the great civil rights struggles of our time." Ryan was nominated for a Nobel Peace Prize for his efforts in death penalty reform.

The Death Penalty in America

Executions by State Since 1977

Texas	345
Virginia	94
Oklahoma	77
Missouri	64
Florida	60
Georgia	39
North Carolina	36
South Carolina	33
Alabama	32
Louisiana	27
Arkansas	26
Arizona	22
Ohio	16
Indiana	14
Delaware	13
Illinois	12
Nevada	11
California	11
Utah	6
Mississippi	6
Maryland	4
Washington	4
Nebraska	3
Pennsylvania	3
Kentucky	2
Oregon	2
Montana	2
Colorado	1
Connecticut	1
Idaho	1
Tennessee	1
Wyoming	1
New Mexico	1
Kansas	0
New York	0
New Hampshire	0
New Jersey	0
South Dakota	0
Total	973

States without the death penalty: Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, West Virginia, Wisconsin, Vermont, District of Columbia

** Statistics Provided by the Death Penalty Information Center. Federal and Military executions are not included.*

A Timeline of the History of the Death Penalty in the United States

- 1608 Captain George Kendall is the first person to be executed in the new colonies.
- 1632 Jane Champion is the first woman executed in the United States.
- 1767 Cesare Beccaria's essay *On Crimes and Punishment* theorizes that there is no justification for the state to take a life.
- Late 1700s The movement to abolish the death penalty in America begins.
- Early 1800s Many states reduce the number of crimes that are considered capital offenses.
- 1834 Pennsylvania becomes the first state to hold executions in correctional facilities.
- 1846 Michigan becomes the first state to abolish the death penalty for all crimes except treason.
- 1890 William Kemmler is the first person executed by electrocution.
- Early 1900s The beginning of the progressive period of death penalty reform in the US.
- 1907-1917 Nine states abolish the death penalty for all crimes or strictly limit its use.
- 1920s-40s The movement to abolish the death penalty loses support.
- 1924 The use of cyanide gas is introduced as a method of execution.
- 1930s Executions reach the highest level in American history, an average of 167 per year.
- 1948 The United Nations General Assembly adopts the Universal Declaration of Human rights proclaiming an individual's "right to life."
- 1958 *Trop v. Dulles*. Declares that the Eighth Amendment ban on cruel and unusual punishment contains an "evolving standard of decency that marks the progress of a maturing society." This case is later cited in efforts to limit the death penalty.
- 1966 Support of capital punishment reaches all-time low. A Gallup poll shows support of the death penalty at only 42%.
- 1968 *Witherspoon v. Illinois*. Dismissing potential jurors solely because they express opposition to the death penalty is held unconstitutional.

- June 1972 Furman v. Georgia. The Supreme Court effectively voids 40 death penalty statutes and suspends the use of the death penalty in the US.
- 1976 Gregg v. Georgia. States that a punishment of death does not violate the Eighth (bans cruel and ual punishment) and Fourteenth (contains due process and equal protection clauses) Amendments under all circumstances. Guided discretion statutes are approved and the death penalty is reinstated in several states.
- 1977 Moratorium on executions in the US ends with the execution of Gary Gilmore by firing squad in Utah.
- Oklahoma becomes the first state to adopt lethal injection as a means of execution.
- Coker v. Georgia. States that the death penalty is an unconstitutional punishment for the rape of an adult woman when the victim is not killed.
- 1982 Charles Brooks is the first person executed by lethal injection.
- 1984 Velma Barfield becomes the first woman executed since reinstatement of the death penalty.
- 1986 Ford v. Wainwright. Execution of the insane is banned.
- Batson v. Kentucky. A prosecutor who eliminates a disproportionate number of citizens of the same race in selecting a jury is required to disprove the suggestion of racial discrimination.
- 1987 McCleskey v. Kemp. Rejected the claim that death penalty sentencing in Georgia was administered in a racially biased manner in violation of the Eighth and Fourteenth Amendments, despite statistical data that showed that black defendants convicted of killing white victims in Georgia were more likely to be given the death sentence.
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- 1989 Stanford v. Kentucky, and Wilkins v. Missouri. States that the Eighth Amendment does not prohibit the death penalty for crimes committed at age sixteen or seventeen.
- Penry v. Lynaugh. Declares that executing persons with mental retardation is not a violation of the Eighth Amendment.
- DNA testing is used for the first time to exonerate a prisoner, establishing that Gary Dotson, who spent eight years in jail, did not commit the rape for which he had been convicted.
- 1993 Herrera v. Collins. In the absence of other constitutional grounds, new evidence of innocence is not a reason for federal courts to order a new trial.
- 1994 President Clinton signs the Violent Crime Control and Law Enforcement Act expanding the federal death penalty to include over 60 crimes.
- 1996 President Clinton signs the Anti-Terrorism and Effective Death Penalty Act, which restricts review of death penalty cases in federal courts to a 6 month statute of limitations.
- 1998 Northwestern University, Evanston Illinois, holds the National Conference on Wrongful Convictions and the Death Penalty, bringing together 30 inmates who had been proven innocent and freed from death row.
- 1999 Pope John Paul II calls for an end to the death penalty in America.
- U.N. Human Rights Commission Resolution Supporting Worldwide Moratorium On Executions. The Center on Wrongful Convictions is founded at Northwestern University.
- 2000 Illinois Governor George Ryan declares a Moratorium on executions and appoints a blue-ribbon Commission on Capital Punishment to study the issue.

- 2002 Ring v. Arizona. A death sentence where the necessary aggravating factors are determined by a judge violates a defendant's constitutional right to a trial by jury.
- 2002 Atkins v. Virginia. The execution of mentally retarded defendants violates the Eighth Amendment's ban on cruel and unusual punishment.
- 2003 Governor George Ryan grants clemency to all of the remaining 167 death row inmates in Illinois because of the flawed process that led to these sentences.
- 2004 New York's death penalty law declared unconstitutional by the state's high court.
- 2005 Texas Governor Rick Perry has signs a bill that gives juries in death penalty cases the option of sentencing a defendant to life without the possibility of parole.
- The Supreme Court bans the execution of juveniles, claiming that it violates the eight Amendment ban on cruel and unusual punishment.

* *Source: the Death Penalty Information Center.*