

DRAMATURGICAL PRODUCTION BOOK FOR THE 2006  
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by

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For the exonerated, and for those who are still waiting.

"People are comfortable with their illusions, and one of ours is that everything in our system of government works just fine. But there is no system that works perfect, and this one isn't working like it should. So what are we going to do about it?"

-Delbert Tibbs

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## CHAPTER 1

### THE ROLE AND FUNCTION OF A DRAMATURG

#### A. Dramaturgy in America

The role of the dramaturg in the American theatre is still being debated. While dramaturgs, sometimes called literary managers, have become more commonplace in the last several years, there is still a contingent of people who believe that the dramaturg is an unnecessary part of the creative and collaborative process. Adding to this confusion, the function of the dramaturg has never been clearly defined. Depending on the institution, the production, or the director/producer, the function of the dramaturg can vary greatly. In general, there are three types of dramaturgs; the new play dramaturg, the institutional dramaturg, and the production dramaturg.

A new play dramaturg's main function is that of a critic, in that they are responsible for finding and fostering new playwriting talent. The new-play dramaturg will read new plays and, if chosen, give feedback on how to

improve the play. The feedback may come in the form of a simple note on the page, or could come through a workshop session or staged reading of the script. The dramaturg is responsible for cultivating the talent of the playwright, and attempting to create relationships with the writers and the institution where they work.

An institutional dramaturg functions as a "theatre manager," in that they have their hand in many different happenings at their respective institution. The institutional dramaturg is mainly responsible for helping shape the mission statement of the theatre, creating the season, creating public outreach programs, serving as dramaturg for productions, and possibly functioning as a new play reader if that is a part of the goal of the institution.

The role of the production dramaturg is perhaps the most flexible. A production dramaturg works specifically on productions and will, many times, work side by side with the director. Typical job duties for the production dramaturg include background research for the production (historical, social and cultural contexts), as well as text work such as editing, scanning, and scoring. All of this takes place before the production meetings begin. Once the

meetings begin, the dramaturg then must become a collaborator. He/she can supplement ideas and concepts with their research, answer questions, or function as a sounding board for ideas.

Once rehearsals start, the dramaturg moves into the role of critic and endeavors to maintain the integrity of the production, and the production's concept. However, this should all be done while maintaining the integrity of the creative process. In other words, the dramaturg should be perceptive, take notes, and offer their observations and ideas in a constructive manner so as not to disrupt or create tensions with the creative forces behind the show. During this process, the dramaturg should strive to remain objective and represent the audience member, making sure the show is as good as it can be. Following the show, the dramaturg is then responsible for creating a production book, detailing their specific production.

The job duties of a dramaturg will vary depending on the show, the institution, and the need of the production. One thing that remains constant however, is that the dramaturg, regardless of their "typical" functions, will always wear several different hats and perform a varying array of functions. Because of this, perhaps the best

attribute that a dramaturg can have is the ability to adapt.

### **B. My Functions as Dramaturg**

My functions as dramaturg varied greatly as the show progressed. The first thing I did, prior to meeting with Paige Bishop, the director, or doing any research, was to get the book *Living Justice* by the playwrights Jessica Blank and Erik Jensen. *Living Justice* detailed the playwrights' journey of coming up with the concept of the play, getting interviews with exonerated people, the problems that arose throughout the process, and progressed all the way through the initial performances. The book gave me great insight into where the playwrights were coming from when creating this show.

While *Living Justice* gave me insight into the playwrights' intentions, it was still necessary to do significant background research for the show. Prior to meeting with Paige, I did some general research on the history of capital punishment, and also made myself familiar with the backgrounds of the characters and their cases. Upon meeting with her, I brought with me a packet that included a brief overview of *Living Justice*, and also

included small case bios for each of the characters, as well as pictures of the people behind the characters.

I believe this set the groundwork as to what Paige was going to expect from me; however, neither of us had been in this situation before. I had never worked on my own as a dramaturg, and Paige had never worked with a dramaturg. We both realized this would make for an interesting experience on both sides. During that initial meeting we discussed her ideas for the show, her views on capital punishment, and what her goals were for the show, specifically in terms of what the audience would get out of it. While the show is inherently political in nature, Paige expressed her desire to keep the show apolitical and focus on the people and their stories.

We also talked about all of the general functions that a dramaturg might perform on the production, and made sure that she was okay with me performing these tasks. Through our discussion we decided that we would collaborate on the press release, our first major hurdle, and eventually do the same on the program notes. We also discussed giving a presentation for the cast, which she thought was a great idea, as well as creating a stimulating lobby display. She was very open to experiencing what a dramaturg can do, and

as it turned out, was very open and willing to hear everything I found in my research that I felt compelled to share with her. We also talked about having talk-back sessions with the audience, and our goals in finding people to speak.

After this initial meeting, I think we both had a pretty good idea of what was to come, and I had a specific direction in which to focus my research. The first order of business was the press release. For the press release I decided it would perhaps work best if I came up with some ideas to submit to her, and let her choose the direction that she wanted to go. So when we met to discuss the press release, I had a few small blurbs ready for her to consider that I thought would work well for the press release. She liked all of them, so I condensed them all into one paragraph, then re-submitted them to her. She took what I had, then expanded upon it to create the final press release we sent out. So after I proof read the final product, and gave the release to both my advisor, Dr. Charlton, and the department chair, Dr. Fleming, to proof-read, we had a final product that we sent out. The press release was used to create articles in the *Austin-American*

*Statesman*, the *San Marcos Daily Record*, and the *University Star*.

During the finalization of the press release, I was also working on my presentation to the cast. I did significant research into the socio-political issues surrounding capital punishment today, the technical aspects of the court process, and what life on death row is like. I condensed information and gathered pictures, facts, and documents in order to create a fifteen minute presentation, complete with cast handouts, for presentation before the first read-thru.

After making my presentation to the cast, I turned my attention to the table work and finding resources for the lobby display and talk-back sessions. The table work went very smoothly as the play is very straightforward. While there were no big issues during the table work, finding people for the talk-back sessions was another story. Because of budgetary concerns, we focused our attention on finding people within the state of Texas to come and speak. Paige had contact with an exonerated person named Joyce Ann Brown from Dallas, whom she had met several years ago at a staged reading of The Exonerated in New York City. In Joyce, we had one person that, if we could get in contact

with her, might be willing to come and speak. I found out about her organization, and Paige made the contact.

Meanwhile, while we were optimistic that Joyce would be willing to come and speak (as she eventually did), I focused my efforts on finding an exonerated death row inmate to come and speak. Since 1976 however, Texas has only exonerated eight people from death row, and, after talking with some members of the Coalition to End the Death Penalty (CEDP) from UT-Austin who had gone through a similar situation, I realized it was a daunting task. They had attempted to contact exonerated people from Texas to speak at one of their events, however were not able to contact any who were willing to come and speak. Ultimately, the few leads that I had turned out to be dead-ends, and we did not end up with a second exoneree to speak.

We did have, as a contingency plan, a contact in Dr. Fleming. He has a relationship with Walter Long, an attorney from Austin who, in addition to being a death penalty abolitionist, had worked on several high-profile cases, including handling appeals for both Napoleon Beazley and Karla Faye Tucker. So when I realized that I was not going to be able to find a speaker who would fit into our

budgetary needs, I approached Dr. Fleming about contacting Walter Long. He did, and Walter came down and spoke with the audience.

Meanwhile, I was also focused on creating a stimulating lobby display. My original idea was to have a video of a speech from an exonerated death row inmate named Shujuaa Graham. I had the benefit of seeing him speak on the UT campus and made contact with the individual who was filming his speech. Unfortunately that did not pan out, as the person making the film did not finish in time for the opening of our show.

About the time I realized the video I was hoping for would not be available, Paige's idea of using multi-media in the show was coming apart. I did research into copyright law and found out that, because of copyright issues, we would not be able to play video inside the theatre without obtaining permission, and most likely paying royalties. Since I was not able to obtain the video for my lobby display however, I recommended that we do something similar in the lobby. By playing the video in the lobby, instead of inside the theatre to a paying audience, the effect could still be made without breaking any laws. When that idea was approved, I went about

getting the video together. Technical hurdles caused more problems than I thought; however, I ended up making the video, and played it alongside the display I had created. The display consisted of stirring images of life on death row and detailed, through images, methods of execution in the 20<sup>th</sup> century.

While the lobby display was being finalized, Paige and I decided that instead of creating traditional program notes, we would instead choose facts and quotes that may help the audience get into the right frame of mind. I then went about finding stimulating facts to place in the program, as well as quotes about courage, which was the University's theme for the year. Paige meanwhile, found a couple of quotes that she liked, and we then compiled what we had and finalized the information to be used in the program.

It was then time for dress rehearsals, and I was fortunate enough to attend my first dress rehearsal with Dr. Charlton, an experienced production dramaturg. I was able to observe her, and see what I should be looking for as a dramaturg, and in what way I should structure my observations. From that, I was able to make some sense out of the notes I had taken, as well as restructure what it

was that I was looking for the second time around. So at the second dress rehearsal, I was able to take detailed notes and articulate exactly what I had discovered to her.

Some of the basic "dramaturgical" observations I made had to do with the more important moments of the show. One of the things I articulated to Paige was my belief that certain key moments in the play were not being emphasized, and that the conflict in these scenes was not being fulfilled. In my analysis of the play, I realized that much of the action takes place within the stories the exonerated people tell, and not in physical action on the stage. I also realized that some of the cuts and edits that Paige had made took away some of that physical action. Therefore it was imperative, I thought, that the moments where there was physical action be fully developed.

One of the other main points I made to her was the fact that when the characters spoke to one another, it took the audience out of what was happening on the stage. From the beginning of the process, Paige and I had discussed her desire to bring the audience into the world of the people on the stage, and have the actors relate their stories directly to the audience. With her concept of the exonerated people meeting at a "gathering" to tell their

stories, the characters sometimes got caught up in telling their stories to one another, which alienated the audience, and made them feel like observers rather than active participants.

In addition to my dramaturgical musings, I was also able to talk with Paige about observations I made that were of a more directorial nature. This was due in very large part to Paige's openness to collaboration and her willingness to hear all suggestions from all members of the production team. My guess is that this is not always the case. However, I was lucky to have a director with this attitude, and some of my observations were taken to heart. I explained to her that during the incredibly powerful speech by Kerry's prosecutor that it was getting lost to some people because of the fact that she was simply standing there, partially obstructed by the window to parts of the audience. While it was my dramaturgical opinion that this speech is a key moment in the play, and therefore should be emphasized, it was my directorial opinion that the defense attorney should exit after his lines to allow the prosecutor to use the entire upstage area and really connect with the whole audience. This actually ended up working out very well when Paige tried it the next day in

rehearsal, and my blocking suggestion stuck. Again, this is not something that every dramaturg is able to, or even should attempt to do. I decided to include this in my list of functions to show what exactly a dramaturg can do.

Of course, not all of my observations and suggestions were used. For instance during the scene where Kerry's brother is killed, Paige had originally blocked it as the script has it, with the ensemble characters acting out the scenario. I liked the way it looked, and made some basic suggestions as to how it could be stronger. Paige on the other hand, was not completely happy with the way the scene was going, and decided to cut it entirely. The actor playing Kerry instead relayed the story to the audience in the form of a monologue; and I think it worked out well.

There were other instances where a suggestion or observation I made was not used, but I could not let it bother me; nor did it. A dramaturg has to be able to check their ego at the door. While I was very fortunate to have a director open to ideas and suggestions, many dramaturgs are not so lucky. A good dramaturg will have both thick skin and a collaborative spirit; these are necessities.

I should also mention that, in addition to all of the notes I gave, I also passed on moments in the play that I

thought worked very well. For instance, Paige had changed the ending of the play, and the things she had done worked very well, and were very powerful. I made it a point to tell her that, as well as tell her about other moments I found particularly strong. I feel that this helps to break up the sometimes critical nature of these sessions. I also believe that good work should be applauded.

For the talk-back sessions, we had Joyce Ann Brown lined up to speak after the shows on Friday and Saturday of the first week, with Walter Long speaking the following Thursday. While a dramaturg would typically serve as a facilitator in these sessions, my role was more hands-off. For the Joyce Ann Brown talk-backs, Paige served as a moderator since she had a connection with Ms. Brown. My role in these was to have questions prepared in case the audience did not have any, and to otherwise sit in and enjoy. Paige did refer to me a couple of times to fill in gaps in the points she was trying to relay to the audience. However, I was primarily a spectator.

For the talk-back with Walter Long, it was decided that Dr. Fleming should be the moderator since the two are friends. Again my role was to sit in and have questions prepared to get the audience on the right track. Before

the show, Dr. Fleming did approach me to ask if I wanted to help moderate, however not having prepared to moderate the discussion, I let him know that I had no specific desire to do it, but if he wanted help I would be more than willing to do so. He did not need help, of course, so my role was to begin the talk-back with a question to get the audience going. My question to Mr. Long had to do with the predominance of faulty eyewitness testimony and snitch testimony in capital trials, specifically in the overturning of those trials, and whether anything was being done, or could be done, to help curb that phenomenon. The rest of the session went smoothly as the audience, small though it was, had plenty of questions to fill up the rest of the time. Though, during all three sessions, I had enough questions prepared to lead a discussion for the full amount of time if necessary.

While these were the major functions I served as a part of this production team, my experiences and my job duties may vary greatly from that of other dramaturgs, even those who may work on a different production of The Exonerated. I was lucky to have worked with a director who was very open-minded about what a dramaturg can do, and was very open to listening to, or looking at, anything that I

would bring to her attention. So my overall experience was very positive, and I hope that I had a positive impact on the production as well.

## CHAPTER 2

### AUTHORS' BIOGRAPHY

Jessica Blank and Erik Jensen were both born in Minnesota, but while Erik grew up there, Jessica's family relocated to Washington D.C. when she was young. While they took different paths, from similar roots, they ended up meeting in New York City. Erik was working as an actor at the time, and had been there about ten years living the bachelor life. Jessica on the other hand, was new to New York City and was just starting to carve out a niche for herself. She was working as a political organizer, organizing politically minded artists in the city, and doing slam poetry at night. Both were very interested in the arts, and had a deep appreciation for theatre.

They actually met while Jessica was out on a date with a friend of Erik's, and they may not have met had Erik not crashed the date after a bad night at the theatre. He was acting in a play and gave Jessica his phone number when his

friend went to the bathroom so he could get her free tickets to his play. When she finally did call, he bought her a ticket, as he had already used up his free ones, and then suggested they go out after and have a drink with the playwright Arthur Kopit. Jessica agreed, and the two hit it off instantly.

Jessica grew up with hippie-activist parents and had always been interested in politics and activism; Erik, however, was not. This is not to say he was not open to the possibility of being more political, he simply did not have the background that Jessica did. So when the two started getting more serious, Jessica decided to invite Erik to a conference on the death penalty at Columbia Law School. She said that this was perhaps a subconscious attempt to see how Erik would fit in with her radical-liberal friends, but also a great event she wanted to share with him. Both Jessica and Erik were left of center politically, but Jessica, realizing that politics was very important to her, was not entirely sure how Erik would respond to the conference.

As they shared in the atmosphere, moving from lecture hall to lecture hall, they stumbled into a hall where they heard a death row inmate named Leonard Kidd talk from

prison. His situation touched both Erik and Jessica deeply  
and, from that, there was born an idea for The Exonerated.

## CHAPTER 3

### CONCEPT AND BACKGROUND OF THE PLAY

When Jessica and Erik attended a conference on the death penalty at Columbia Law School, they stumbled into one of the lecture halls where the organizers had set up a phone surrounded by speakers. On this phone would soon be a death row inmate named Leonard Kidd. It took a while for the conference organizers to establish a connection, but when he did begin to speak, he outlined the details of his case, and told everyone that he "wants to go home" before being cut off by the prison officials.

A member of the so-called "Death Row Ten," Kidd's conviction was based on a confession he gave to authorities before the trial began. That confession however, was allegedly tortured out of Kidd. This was not a case where bleeding-heart liberals speculate as to the origins of his confession; this was a documented case of abuse by an officer. After an internal investigation by the Chicago

Police Department, as well as an external investigation by local newspapers, the officer was fired with pension. The officer, Commander Jon Burge, had learned his techniques in Vietnam and had decided to implement them while questioning criminals back home. Even after all of this information became known, Kidd could still not get a re-trial.

All of this basic case information was relayed to the audience, including Jessica and Erik, before the phone call came through. Both were disturbed by what they had heard, but no more than if they had read in it a book or saw it on television. When they heard the man speak however, a voice reaching out from death row, it became a very powerful experience. They both were very moved by what they had heard, and started passing notes back and forth about what sorts of ways they could get other people to feel the same way.

Looking around, Jessica and Erik realized that everyone in the room who had heard Leonard Kidd's phone call were already a part of the proverbial "choir" being preached to. Instead, they thought, people not already committed to this cause should have this experience. They were both very interested in documentary theatre, and both thought that a play in that style would work best. A play,

they thought, would attract a large audience who would come strictly for entertainment value, while the documentary style would lend itself perfectly to what they were trying to accomplish. They realized that they should have people tell their stories, in their own words, in order to create the most realistic environment possible.

This laid the foundation for The Exonerated. Jessica and Erik began on their idea and started doing heavy research into all aspects of the capital punishment process. Their original intention was not to have it published and tour the country, as it is now doing, but rather to simply help raise awareness for the cause, and have people share in a powerful experience that they had.

After spending two months doing research into the death penalty, they began working on pitching the idea to different people around New York. By chance, they happened to meet up with a mutual acquaintance named Allan Buchman. He had just opened a theatre in the city called 45 Bleeker and, upon hearing their basic concept, he told them to drop something off at his office. They did, and they soon met him for lunch where they agreed to have something before the 2000 Presidential election that was six months away.

Jessica and Erik then began working diligently towards getting started. They learned how to conduct interviews, how to raise money, and made calls to try and get in contact with exonerated people from around the country. They finally received help from the Center on Wrongful Convictions (CWC) at Northwestern University. The CWC works with many different cases, trying to exonerate people who are innocent on death row. They gave Jessica and Erik a list of contact information, however the most difficult part was still forthcoming.

As two young actors from New York who simply had "an idea for a play," they had to call these exonerated people and try to convince them to share intimate, painful memories with them. The first person Jessica and Erik talked with was a bit gruff. Once they made a few more contacts however, and found that people were willing to speak with them, they became more comfortable. Their plan was to conduct mini-interviews over the phone in order to distinguish the people with whom they would want further contact. They took into account several factors, including eagerness to participate, how articulate they were, how their story fit in with what they were trying to do, etc.

They then whittled down their original list and began to finalize the list of people they would travel to visit.

They created a list, took the little money they had, rented a car, and set out on a road trip. They would take several of these over the next couple of months, conducting interviews all over the middle and eastern parts of the country. They conducted several interviews and, when finished, retired back to their small apartment to begin going over the thousands of pages of transcripts they had acquired.

While pouring through the numerous pages of text, they began to whittle it down to where they had a workable number of pages to deal with, and began calling actor friends of theirs to help workshop the piece. While it did not resemble a play by any means, the actors helped them to hear the words out loud and begin to form something that would eventually work on a stage. When they had a semblance of working parts, the cast started coming together, with the first big additions being Susan Sarandon and Tim Robbins. Many more names would be added to the list, as their original "run" for the show would be three staged readings. The readings would all feature different

casts, and some big names, like Steve Buscemi and Charles Dutton, eventually got on board with the project.

Once the cast began to come together, it was time to finalize the script. The original script of the play featured eleven different stories, and played to three sold-out houses. The play was then invited to be played at the United Nations with another cast of well-known actors. Overall, it was a very successful run, both theatrically and critically. The success of the play made it clear to both Jessica and Erik that the play had to continue.

The play could not, however, exist in its current form, as it was just a series of monologues designed to be read. They needed to "jazz it up" and make it more theatrical. They cut down, with much agony, the number of cases featured to six, and began researching court transcripts from the exonerated people's respective cases. They wanted to maintain the all-real aspect of the show, while adding some dramatic elements; however, they did not know how difficult it would be to attain court transcripts.

They ended up flying around, spending days pouring through court transcripts, trying to find play-worthy moments. They eventually found what they needed, and proceeded with the process of putting the play together

once again. The play came together, and was eventually debuted in its current "theatrical" form by the Tim Robbins-led Actor's Gang in Los Angeles. The show played to great acclaim, and has continued to wow audiences ever since.

## CHAPTER 4

### HISTORICAL BACKGROUND OF THE PLAY

The first historical evidence of death being used as a punishment for criminal activity dates back almost 4,000 years to the time of Ancient Babylonia, and King Hammurabi's Code in the 18<sup>th</sup> Century BCE (Kronenwetter 107). Hammurabi's Code began a trend that would be carried on through present times; the mandating of death as a punishment for crime. The punishment of death has impacted many of our historical figures including, in ancient times, Socrates and Jesus of Nazareth, and has been the subject of several of our darkest points in world history (the reign of King Henry VIII, the Salem Witch Trials, etc.).

The American system of capital punishment was brought over by the English when they colonized America in the 17<sup>th</sup> century. The first execution in the American colonies took place in the Virginia colony in 1608, and capital punishment was supported by all American settlements.

Executions took place throughout the 17<sup>th</sup> and 18<sup>th</sup> centuries, and the death penalty was enforced for a wide variety of crimes including sodomy, stealing chickens, and "denying the one, true God" (Mitchell 476). Soon America began fighting for its independence, eventually winning it in 1776, however in the area of law, some of our protections are borrowed from the English.

In 1791 the Bill of Rights was adopted in America, with specific protection for persons convicted of capital crimes. The Eighth Amendment protects a criminal from being subjected to "cruel and unusual punishment." This is modeled after an English law protecting the same rights, however the Eighth Amendment mentions nothing specifically about the punishment of death, as it is an accepted practice in the United States. The Fifth Amendment also helps to protect the rights of the accused, as it promises all persons the right to due process. It is supplemented by the Fourteenth Amendment, and guarantees that all people have the right to a fair trial before the taking of their life, liberty, or property.

Shortly after the Bill of Rights was ratified, the state of Pennsylvania became the first state in the union to severely limit the crimes that were punishable by death.

Pennsylvania made it legal only to put somebody to death for the crime of "first-degree" murder. This law was passed after the recommendation of the state Attorney General, who recommended that the death penalty be abolished for all crimes except murder and treason. In the next few decades other states commissioned similar reports, though not necessarily with the same conclusions.

Meanwhile, as the 19<sup>th</sup> century approached, steps were slowly being taken in the United States to limit the use of the death penalty, and the debate over abolition raged on. Pennsylvania took another big step forward in 1834, when they passed a law banning public executions. Several other states followed suit and instituted de facto bans, though others continued to carry out executions publicly. Eleven years later, Pennsylvania became the site for the meeting of reformers from around the country. They got together and formed the first known abolitionist group in America called the American Society for the Abolition of Capital Punishment. The organization's first leader was George Dallas, who was, then, the Vice President of the United States (Kronenwetter 112).

A year after the formation of the abolitionist group, the state of Michigan became the first state to abolish the

death penalty; however they retained a clause to use it for crimes of treason against the state. It was not until 1852 that Rhode Island became the first U.S. state to abolish the death penalty outright. They were quickly followed by Wisconsin the following year. Through the next several decades, numerous states would abolish the death penalty, only to reinstate it again shortly after. Wisconsin and Rhode Island however, maintain their abolition.

During the latter half of the 19<sup>th</sup> century, the Supreme Court began making rulings that would greatly affect the future of capital punishment. Starting in 1878, the Supreme Court applied the Eighth Amendment to a capital case for the first time. In *Wilkerson v. Utah*, the court decided that the public execution of a murderer did not constitute cruel and unusual punishment under the Eighth Amendment (*Wilkerson v. Utah*, 99 US 130, 1878). While this marked the first appeal to the court based on the Eighth Amendment, it would not be the last. The Eighth Amendment is still hotly debated today.

In 1890, the court heard another case challenging the death penalty as unconstitutional. In the case *In re Kemmler*, Kemmler argued, for the first time, that the carrying out of a death sentence is unconstitutional. The

court ultimately decided that execution is not cruel and unusual punishment, and furthermore, that the newest innovation in death devices, the electric chair, may be used in lieu of hanging to carry out executions. The court ruled that cruel, in the constitutional sense, means "something inhuman and barbarous, something more than the mere extinguishment of life" (In re Kemmler, 136 US 436, 1890). Kemmler then became the first victim of the electric chair later that year.

Another important Supreme Court decision was handed down in *Weems v. United States* in 1910. The court rules that the definition of cruel and unusual punishment may change over the years due to an "enlightenment" of public opinion. This is important because it left the door open for later cases to challenge capital punishment as being "cruel and unusual" based on the changing of public opinion (*Weems v. United States*, 217 US 349, 1910).

The changing of the century would mark the start of a very turbulent time for capital punishment. The 20<sup>th</sup> century would see highs and lows for executions, and public opinion will fluctuate greatly on the subject. By the turn of the century, abolitionist groups had strong roots and were working diligently to end capital punishment; but

public support for the death penalty, for the most part, still held firm. The fluctuating views of Americans during this time is evidenced by the fluctuation of laws. Several states abolished the death penalty between 1900-1920; however, most of them reinstated it shortly thereafter.

The 1930s were a dark time in American history, mainly due to the onset of the Great Depression. However, it was also a record-setting time for American executions. During the 1930s, an average of 167 people were executed per year, more than in any other decade in American history ([www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)). While nobody can say for sure, this trend may have continued had it not been for other happenings in the world.

At the same time as America was executing people at an alarming rate, Adolph Hitler had risen to power and was beginning his *blitzkrieg* on Europe. In light of the unfathomable violence taking place overseas, the people of the United States were, for the first time, beginning to question their support of the death penalty. This rethinking of policy was not limited to America however, as many countries, including Italy and the United Kingdom, placed major sanctions on the death penalty, with the United Kingdom calling for a temporary halt to executions.

Even as support for the death penalty was fluctuating following the war crimes committed by Nazis, during the Nuremberg War Crimes Trials, a total of 37 Nazi war criminals were convicted and sentenced to death (Kronenwetter 121).

After World War II death penalty abolitionists began to make an impression in the United States. Most of the world also seemed to be following suit as the newly formed United Nations declared a "right to life" for all individuals. Additionally, several countries around the world either abolished the death penalty, severely limited its use, or began looking into the effects of capital punishment. Specifically in the United States, executions such as that of Julius and Ethel Rosenberg, who were executed for selling secrets to the Russians, sparked public debate over the idea of capital punishment.

Moving into the 1960s, executions were on the decline, and public support for the death penalty was waning. Public support dipped to 47% in 1957, and in 1966 public support dipped even further, hitting an all-time low of 42%, with 47% of Americans opposing capital punishment (poll.gallup.com). Factors leading to this shift in public opinion range from the aftermath of World War II, to the

increase of activism in the United States, to greater public attention to the capital punishment debate.

Throughout the 1960s the number of executions continued to fall until, in 1968, there were none. It was the first year in American history that there had not been an execution ([www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)). While public support was low for the death penalty, the catalyst for the de facto moratorium was a series of class-action lawsuits brought by the National Association for the Advancement of Colored People (NAACP) Legal Defense Fund. The suits caused many states to pause and reevaluate their capital punishment laws (Henderson 100).

With the 1970s came great success for both sides of the capital punishment debate, and landmark rulings that would greatly affect the way the death penalty is employed. The de facto moratorium on executions stood through the changing of decades, however some states that were affected by the NAACP suits, found their systems to be constitutional and reinstated their death penalty laws. Even with the re-enacting of these laws however, no executions were carried out.

In 1972 the Supreme Court finally ruled on the constitutionality of the death penalty in the landmark case

Furman v. Georgia. In the Furman case, the court ruled 5-4 that the death penalty, in its current form, constitutes cruel and unusual punishment under the Eighth Amendment. The decision struck down all current death penalty laws of the time, commuted the sentences of over 600 people across the country on death row, and legally stopped the use of capital punishment in the United States. In their rulings, the Justices that were in favor of the moratorium declared that the death penalty has been enforced unfairly and arbitrarily, and therefore was unconstitutional in its current form. In their dissent, the Justices opposed to the ruling made sure to mention that states could reinstate the death penalty by reviewing and reworking their laws. Many states took that to heart (Furman v. Georgia, 408 US 238, 1972).

Over the next four years, many states worked diligently to change their laws to make capital punishment acceptable again, while public support for the death penalty actually grew. In 1976 the states finally succeeded, and in the case of Gregg v. Georgia, as well as two other "sister cases," the Supreme Court ruled that the states had done enough to constitute the reinstatement of the death penalty. The ruling stated that the death

penalty was not actually cruel and unusual, and that Georgia, Florida, and Texas, could execute their respective inmates. The court believed that the states had adequately updated their death penalty statutes, and were now able to carry out executions under the new terms. Several states would follow their lead in the next few years.

Later that year an inmate in Utah named Gary Gilmore gave up his appeals and chose to be put to death by firing squad. Though his mother was still attempting to fight appeals on his behalf, Gilmore chose his sentence and on January 17, 1977, was the first person put to death in the United States since 1967. After Gilmore's execution, things moved slowly. The next execution did not take place for almost two-and-a-half years, and no executions took place in 1978 or 1980. Starting in 1984 however, the number of executions jumped from five in 1983, to twenty-one.

Since the death penalty was reinstated, referred to as the "post-Furman" era, there have been 1,016 inmates put to death as of April 17<sup>th</sup>, 2006, and while executions may have started slowly after the 1976 "Gregg" ruling, in the mid-1990s they took a huge jump forward. Since 1997, the average number of executions in the United States has risen

to an average of nearly 72 executions per year. Executions reached a high for the post-Furman era in 1999 when 98 inmates were executed; 35 in Texas alone.

Currently there are 38 states, in addition to the U.S. Government and Military, that have laws on the books supporting capital punishment, although both Kansas and New York have recently ruled their death penalty laws unconstitutional. Twelve states, as well as the District of Columbia have laws against the death penalty, and there are eighteen states, plus the District of Columbia, that have not carried out an execution since the death penalty was reinstated in 1976.

Worldwide, more than half the countries in the world have abolished the death penalty, and the United States is the only developed country in the Western Hemisphere to still enforce death as a punishment for crime. According to the Death Penalty Information Center, there are 120 countries that are abolitionist either by law or in practice, versus 76 countries that still enforce the death penalty. In 2004, there were almost 3,800 executions in 25 countries worldwide. The United States had the fourth-highest known total behind only China, Iran, and Vietnam.

China accounted for approximately 3,400 of those executions ([www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)).

The death penalty has a long and storied history, and public support in the United States has continually stayed between 64-80% since 1978 ([poll.gallup.com](http://poll.gallup.com)). While abolition may not be likely in the near future, several key issues are being debated right now in our courts, and the capital punishment debate rages on in America.

## CHAPTER 5

### SOCIAL CONTEXT OF THE PLAY

On December 2, 2005, during the table work for The Exonerated, the United States reached the sobering milestone of 1,000 executions in the post-Furman era. With the execution of Kenneth Lee Boyd in North Carolina, the national debate resurfaced about the efficacy of the death penalty. All major media channels covered the milestone, staging debates about the nature of the death penalty and its effectiveness, and generally giving heavy media attention to a topic that is always debated, but usually not in the foreground.

The original inmate scheduled to be execution number 1,000 however, was Robin Lovitt of Virginia. The media delved deep into his case, as well as his claims of innocence, and painted a portrait of a man who may have a legitimate claim to innocence, based on severe evidence tampering. His execution was delayed once the previous

July, and his sentence was eventually commuted to life in prison. After he commuted the sentence, Governor Mark Warner said that the state of Virginia "must ensure that every time this ultimate sanction is carried out, it is done fairly" ([www.governor.virginia.gov](http://www.governor.virginia.gov)). While Lovitt's commuted sentence is important since it saved his life, perhaps the biggest influence this ordeal had on the nation as a whole was that it forced people to ask the question "is he really guilty?" Because of his commuted sentence, the media was able to address the question of innocence on death row.

Whether Robin Lovitt is innocent of the crime of which he was convicted, I do not know. The circumstances of his case however, helped to bring the innocence issue to the fore, if only for a short time. The execution of Kenneth Boyd happened shortly after, and the media strayed from the Lovitt case and the question "are innocent people being put to death?" The response of the media however, shows that there is still great public interest in this subject. Indeed, there is still a raging debate in this country regarding whether the death penalty is a deterrent, and whether it is cruel and unusual punishment.

### **A. Recent Legal and Political Developments**

In the past several years, great strides have been made to ensure that no innocent person is put to death; however the system is not, in any way, perfect. Several U.S. Supreme Court decisions have affected the death penalty in recent years, though not always positively. One of the rulings that negatively affected capital offenders was *Herrera v. Collins* in 1993. The most important result of the case came in the court's ruling that Herrera's claims of innocence based on new evidence held no weight because of his conviction, and because that conviction was upheld in appeals.

Herrera's constitutional claim for relief based upon his newly discovered evidence of innocence must be evaluated in light of the previous 10 years of proceedings in this case. In criminal cases, the trial is the paramount event for determining the defendant's guilt or innocence. Where, as here, a defendant has been afforded a fair trial and convicted of the offense for which he was charged, the constitutional presumption of innocence disappears (*Herrera v. Collins*, 506 US 390, 1993).

What this ruling did was set a precedent that inmates who had new evidence discovered in their cases, would have a difficult time getting the new evidence heard in a court. This could conceivably keep a death row inmate from presenting evidence of his/her innocence based on the fact

that the inmate had already been convicted of the crime.

This ruling still stands.

Steps have been taken to help avoid the execution of innocent people however, perhaps most notably the Innocence Protection Act in 2004. Also known as the "Justice for All Act," it provides funding to the states for post-conviction DNA testing, sets in place regulations for inmates to apply for DNA testing, and also provides grants to states to help them improve the quality of capital punishment trials.

These grants can be used to train and oversee capital trials, and can also be used to help the families of murder victims.

There have been other developments throughout the years, including hundreds of individual cases argued before the state and federal Supreme Courts, and several pieces of legislation regarding capital punishment that have led to our current state of affairs. Since the beginning of 2006 however, there have been major developments in the debate over the constitutionality of the death penalty.

On January 25, 2006, the U.S. Supreme Court ruled to stay the execution of a Florida death row inmate who challenged his execution, claiming it was unconstitutional because it fell under "cruel and unusual punishment," which

the Eighth Amendment protects against (Hill v. Crosby, 05-8794). His main argument was that the chemicals used in the execution could possibly leave him awake, therefore inflicting severe and unnecessary pain. This ruling by the Supreme Court has had a large impact nationwide, in that executions were stayed and procedures analyzed across the country; most notably in California.

In California, a U.S. District Court judge ruled that in order to carry out the execution of an inmate, Michael Morales, the state must have a medical expert present to ensure unconsciousness, and that the inmate feels no pain. The state of California was unable to comply with the court's order due to the fact that the medical experts did not want to participate in an execution, which goes against their Hippocratic Oath. As a result, Morales' execution has been postponed indefinitely until the court can hear the case for and against California's method of execution, and make a ruling.

In addition to these two cases, there are several more before the U.S. Supreme Court based on the same cruel and unusual punishment claim. The Supreme Court is not expected to rule on any of these cases until their next session, starting in October 2006. While the cases are

waiting to be heard however, some executions continue to be carried out across the country.

### **B. Public Defense**

Perhaps the most pressing legal issue the play deals with is the public defender system. In the 1963 U.S. Supreme Court case *Gideon v. Wainwright*, the court ruled that "two systems of justice had prevailed; one for the rich, and another for the poor" (*Gideon v. Wainwright*, 372 US 335). The ruling effectively led to the formation of a public defense system in the United States where, if a defendant is labeled as indigent, or unable to afford counsel, one may be appointed by the court. The problem with this however, is that the public defender office, if a county even has one, is usually over-worked and under-funded, resulting in less than satisfactory representation. This is not true in all cases of course, but a large majority of the time the defense starts at a disadvantage simply because of the amount of time and money available to the defense counsel, even in a capital murder case.

At UT-Austin, I listened to a mother of a Texas death row inmate speak, and she said that she believed that while the death penalty is supposed to be reserved for the "worst

of the worst," that instead it was targeting the most vulnerable. Her point was that the system tends to be harsher on those who do not have the money to afford proper defense; ultimately, the majority of those people are minorities. Therefore, she was of the belief that the system is balanced in such a way that minorities are at a disadvantage.

Attorney Walter Long, during his talk-back session after one of the performances, brought up the fact that while there are very few standards for defense counsel during the trial phase, there are absolutely no standards for a defense attorney during the appeals process. He related a story about a defense attorney in Texas who, during a capital trial, fell asleep while court was in session, and suffered no consequences. Granted there was media coverage of the event, but the lawyer suffered no professional reprimands or sanctions. During the defendant's appeals, it was ruled that his lawyer sleeping during his trial, was not grounds for a new trial. This decision was ultimately reversed, and the defendant's sentence was commuted because of the lawyer's incompetence. This is obviously an extreme case of poor representation, however the point remains valid; there are major problems

in the public defense system in this country, and without major changes, such as adequate standards for trial attorneys and adequate funding, there will continue to be major problems.

### **C. Social Issues**

The play deals with several social issues that are relevant to both sides of the death penalty debate. The most prominent and upsetting issue is racism. In the cases of the black people portrayed in The Exonerated, race played a role in each of their arrests and subsequent convictions. One of the major points of contention for death penalty abolitionists is that the death penalty system in America targets minorities more than whites. The facts may seem to support that claim, specifically in a state like Texas where 69.5% of death row inmates are minorities ([www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)). Supporters of the death penalty counter this argument by saying that more whites have been executed in the U.S. than any other race, and if certain numbers show a racial bias, it is because minorities are responsible for more crime than whites ([www.prodeathpenalty.com](http://www.prodeathpenalty.com)).

One thing that is striking however, is the number of criminals sentenced to death based on the race of the victim. In 2003, the ACLU published these findings:

While white victims account for approximately one-half of all murder victims, 80% of all Capital cases involve white victims. Furthermore, as of October 2002, 12 people have been executed where the defendant was white and the murder victim black, compared with 178 black defendants executed for murders with white victims.

To expand and update their findings, as of March 2006, the number of white inmates executed for the murder of a black person has remained the same (12), while the number for the reverse has risen to 209. The last execution of a white inmate convicted of murdering a black person occurred on May 3, 2002; a span of almost four years and 239 executions. Since the execution of Thomas Strickler on July 21, 1999, a span of almost seven years and 453 executions, there have been 68 black inmates put to death for the murder of a white person (15%), versus the one white inmate put to death for the murder of a black person (0.002%).

There are three black people portrayed in The Exonerated, all of which faced elements of racism in their cases. All three crimes happened in the South, two of them in the 1970s. What is perhaps most disturbing is that the

racism came at the hands of law enforcement. While the argument can be made that racism in the United States is not as pervasive as it was in the 1970s, it has not disappeared. The case of Robert Earl Hayes took place in the 1990s, and there were still strong elements of racism in his case.

The larger debate between death penalty advocates and opponents stems from moral views and personal beliefs, which are not appropriate to discuss here. However the main topics of debate range from the idea of "an eye for an eye," or whether death is an appropriate punishment for murder, to whether innocent people are being executed. A primary point of contention between abolitionists and supporters, is the idea of the death penalty as a deterrent. One of the main arguments in support of the death penalty is that it deters criminals from committing crimes, while abolitionists contend that there is no proof of that.

The play shows just how difficult it can be for a person tried for a capital crime to be able to prove their innocence. In many of these cases, it seems as though the people are presumed guilty before even going to trial, while in this country we are supposed to be innocent until

proven guilty in a court of law. The problem with presuming someone's guilt is that when the media begins to cover the case, as they routinely do in murder cases, the media, the lawyers, and law enforcement can do something called "tainting the jury pool." This practice is fairly common in America and most television viewers have probably been privy to it. "Tainting the jury pool" is when the media begins coverage of a heinous crime, such as capital murder, and focuses much of its attention on a single individual, implying that they are the guilty party. This is most prevalent, and perhaps most powerful, in smaller towns and cities across the country, where a murder is not something that can go unsolved and an arrest and conviction must be made.

These sorts of dangerous practices are what can lead to people being wrongly incarcerated and losing decades of their lives, or perhaps losing their life completely. The play details the necessity for our nation to re-evaluate our criminal justice system and the way in which we go about prosecuting and punishing our criminals. In America, every citizen has the right to a fair trial by a jury of their peers; but after working with this play, I am not so sure that is true.

## CHAPTER 6

### CRITICAL COMMENTARY

The Exonerated has been playing non-stop for over three years at the off-Broadway theatre 45 Bleecker, and has played numerous shows around the country. It also just recently premiered in Britain, where it has been getting mixed reviews. The play's success in the U.S. however cannot be debated. Much of its appeal can be linked to the stories of the characters, as well as the issues raised within the play. Perhaps the best description of its appeal however came from Philip Fisher when he said that The Exonerated is "a play that is emotionally disturbing but spiritually uplifting" (Fisher). That is the play in a nutshell.

When looking at reviews of The Exonerated from around the country, and also from London, the one element that struck me was that they were all different. The reviewers all seemed to identify with different parts of the production and cited a wide variety of aspects of the play.

While many critiques featured the stories of Sunny, Kerry, and the eloquence and power of Delbert and his poetry, many others cited the stories of the other characters as well. Everybody seemed to identify with a different part of the show.

Obviously different critics had different reactions to the play, however the general reaction to The Exonerated was positive. Many critics focused the play's relevance to modern-day political issues, and rightly so. The show was intended to help persuade people to see the inherent flaws in the American legal system, and critics from around the country got it. Many critics noted the powerful message the show carries, and its ability to instill that message on the audience. Everett Evans of the *Houston Chronicle* noted that "while there are affecting bursts of despair and rage, the prevailing approach is one of understatement." A review in the *Los Angeles Times* agreed saying The Exonerated "proves more profound and persuasive than any rhetorical pitch to abstract moral principles" (Brandes).

The persuasiveness of the show is very important, since the original intention of the show was to allow people to have the experience these critics say they are

having. It is not a play that shies away from having an agenda; or as Amanda Cooper puts it, "if you're looking for a two-sided, open-minded play about capital punishment, this is not it" (Cooper). This was intentional of course, as Blank and Jensen wanted to create this play in order to change people's minds. The brilliance of the play however, is that it does not beat you over the head with the issue, but rather presents the play, as Everett Evans points out, with a sense of "understatement."

While no reviewers stated they felt as though they were being inundated with propaganda, as many political plays can, many questioned the way in which the show went about presenting the stories. Many critics however, believed that the play could have expanded its scope. Alistair Smith believed that "if there is one thing that the production lacks, however, it is a sense of balance" (Smith). Smith goes on to elaborate, saying "[the play] reaffirms the fears that many already hold about the American justice system, without really ever attempting to enter into a debate about it" (Smith). Natalie Bennett elaborates on Smith's assessment:

Criticism of racism, hints about the poor pay for public defenders, criticism of the political pressure on police and judicial systems to get a conviction, any conviction, do come through, but there is no

deeper analysis or thoughts about the underlying nature of US society that produces these effects (Bennett).

This seemed to be a problem that other critics had as well, as many of them seemed to enter the theatre expecting something different than what they were presented with.

The want of a wider debate about capital punishment in the show was one that reoccurred in several different reviews. Many of the critics longed for a more widely encompassing work about the complexities of the death penalty debate. Lucia Mauro for one, believed that the play, as it stands, does not go far enough.

When the issue is as heated and topical as the death penalty - like any compelling court case - it screams out for multiple viewpoints, and a much deeper and probing examination of what led to these wrongful convictions in the first place.

She continues, saying that:

I longed for a more nuanced and honest assessment of some of Delbert Tibbs' more profound statements, like how the system "messes with your sense of personal power" or the pain of having to learn how to feel and be human again. Now that would have made for a challenging work of art (Mauro).

Her assessment brings up a good point in that the play does not delve deeply into the exonerated people's lives, but focuses primarily on their past situations. However, specifically in the case of David, elements of how this

experience has changed them do play a large part in how the action plays out. Each character bares a little bit of themselves during the show, and perhaps during the production Ms. Mauro saw, that was overlooked. The human component is a large part of the appeal of the play, and without the audience being able to identify and feel for these characters, the play would be grossly ineffective.

Nicholas de Jongh makes a good point in his critique of the play however, when he says that "the attempt to cram six life stories into 90 minutes renders each infuriatingly superficial" (de Jongh). His assessment that each character, if it were broken down evenly, gets about 15 minutes to tell their life story is valid. The play does depend however, on the notion that wrongful incarceration is something that happens more than we may know. While telling the audience more about each story, and delving deeper into their characters would be ideal, unfortunately the play would be far too long. Therefore, the actors playing the exonerated people must take care to allow the nuances of these characters show through to allow the audience to see how they have been affected by their situation.

While there were many critiques that questioned the scope of the play, perhaps the most written about aspect of the play was the style. The most seemingly "controversial" and written-about issue was that of the readers-theatre format many of the shows employ. Blank and Jensen call for this sort of format in the preface of the play, however many critics feel as though it detracts from the human element. Lucia Mauro sums up her own perspective, and her assessment closely resembles that of many other critics.

Some may argue that the simplicity of the staging, with actors speaking the words of these victims, humanizes them and makes their plights immediate. In this rare case - and coming from someone who strongly believes in the redeeming power of live theater -- I disagree. (Mauro)

She believes that the staging style takes away from the human aspect of the production, and she is not alone in that assessment. Other critics had difficulty being pulled in by the stories because of the readers-theatre style. Brian Lowry of *Variety* thought that the play "is so clenched and stagy it's difficult to get drawn into the production, however well-intentioned it might be" (Lowry). Natalie Bennett concurs, and elaborates on Lowry's assessment. "Supporting [the readers-theatre] format, they are apparently reading their lines, or at least flicking

over the pages, an action that is both distracting and annoying" (Bennett). These critics make valid points about the style of the play, in that an audience watching a staged reading, as this essentially qualifies as, will not feel the same effect as if they truly believed that the people on the stage had gone through these ordeals themselves. The "willful suspension of disbelief" can only travel so far in the theatre, and while the stories are powerful by themselves, it is understandable to think that watching people read the stories off of music stands could detract from that strength.

The Exonerated began as a readers-theatre piece of course, however the show also was reworked in order to make it more "theatrical." The intention in doing so, was to make the play more interesting, and to emphasize points in the play in order to increase the effectiveness of the play. Thus, the memory scenes in the play serve to supplement the action on the stage, however some critics believe them to be detrimental. As the *New York Times'* Ben Brantley states, "in some cases, this parceling out of roles leads to confusion and can distract from dramatic flow" (Brantley). The memory scenes add to the "stagy" style that Brian Lowry talked about, and carries the

possibility of being detrimental to the overall impact of the show.

Natalie Bennett talks about another aspect of the theatrical style that detracted from her enjoyment of the play; the sound effects.

The sound effects - slamming prison doors, buzzing electric chairs - are also heavy-handed and unsubtle. If we are hearing transcripts of words, they also make little sense (Bennett).

Her point that the sound effects take away from the stories is very valid. Again, if the intention is to suck an audience into the stories in order for them to be affected by what is happening onstage, then the sound effects can be distracting.

Since the show is political, much critical attention was paid to the message of the play, and to whom it is addressed. While most critics agree that it carries a strong message, they have questions as to how effective the play is at changing people's minds. Paul Birchall believes that no matter where the play is presented, that it will have a very strong effect.

It doesn't matter what our opinion of state-sponsored execution is; even the most vengeance-hungry, crime-and-punishment-loving advocate will come away from this show moved to believe that something is very wrong with a system that brings innocent people so close to the electric chair (Birchall).

Keeping that in mind, it would be safe to say that the largest concentration of "crime-and-punishment-loving advocates" would reside in the Southern states. The Southern states, by far, carry out more executions than any other portion of the United States, and therefore if a theatre wanted to carry the message to a large group of pro-death penalty audience members, the South would be the ideal place. Wendell Brock of *The Atlanta Journal-Constitution* critiqued one such production.

Because the South has always been a bastion of capital punishment, it's no surprise that four of the six cases occurred in Texas and Florida and that the actors who played Southern police officers and prosecutors often sounded like ignorant Jim Crow racists, liberally tainting the public record with the "n" word. Some of this was overplayed. But like it or not, this is who we are (Brock).

Keeping the intent of the show in mind, it would be ideal for the show to play to pro-death penalty audiences; however that is not always the case. In general, theatre audiences tend to be more on the liberal side, and therefore you get the problem of "preaching to the choir." This is not to say that all theatergoers are against the death penalty, but as John Lahr put it in the *New Yorker*, "arguing Off Broadway against the death penalty is like

pushing at an open door" (Kaplan 97). Touring productions, University productions, and Regional and Community Theatre productions however, have helped to spread the show around the country, and find audiences of all types.

Amanda Cooper summed up the intention of the show well, saying that "The Exonerated is not easy to watch, but then it's not easy to be locked up and condemned to death for a crime you didn't commit." The Exonerated has been well received across the nation and abroad, has won numerous awards, and has just maybe changed some minds. The critical response has usually been very positive, with even the detractors citing the stories as compelling. Perhaps, regardless of how the show is played, the message can still be received. As Sue Merrell said,

These stories are a resounding indictment of our legal system, but the six characters seem to rise above that. If they can still believe that the system can be improved, how can we let them down? (Merrell)

## CHAPTER 7

### PLOT SYNOPSIS

While The Exonerated does not contain a traditional linear plot structure, the stories do move linearly. The play opens with Delbert reciting a poem, telling the audience that "this is not the place for thought that does not end in concreteness." The other characters then begin introducing themselves and the backgrounds of their lives and their cases. The introductions are interspersed with poetry by Delbert, and the characters give the basics of the crimes and their arrests.

After all the exonerated people introduce themselves, they begin to talk about their interrogations and trials. In these sections, we continue to learn about the problems that took place within their respective trials; from evidence tampering and prosecutorial misconduct, to racism. The characters talk of the thoughts they had about being executed, and then begin to talk about their time in prison.

First, some of the exonerated people talk about the psychological effects of prison, and what it did to them. They discuss how it affected their mood, their spirituality, as well as how they killed time while in there. After talking about the psychological effects, Kerry gives a stirring example of the physical trials he faced while in prison. Overall, the characters paint a vivid portrait of the difficult time they had living on death row.

While sitting on death row, many of the aspects of the lives they knew before incarceration changed dramatically. Sunny and Kerry, the two who spent the longest time incarcerated, had their lives completely changed by the time they were released. Sunny talks of her parents' deaths and her children growing up without her. Kerry then details the murder of his role model, his brother.

After describing their time in prison, and the effects that had, the exonerated people begin to tell of how they were exonerated. Each character details how they were released, the reason for their release, and also their difficulty in adjusting to normal life after their time in prison. While some have had a more difficult time

adjusting than others, they talk about how, and why, it has been so difficult.

The play ends on a hopeful note when, after Sunny details the brutal execution of her husband, both she and Delbert talk of change. Both believe strongly that things in America should change, specifically in the justice system but elsewhere as well, and speak of the ways in which they are doing their parts to help create that change. The play then ends with Delbert restating his poem from the beginning of the play, saying that "this is the place for thoughts that do not end in concreteness," which symbolizes the changes all the characters have undergone.

## CHAPTER 8

### PLAY STRUCTURE

The unique structure of The Exonerated makes it difficult to do a traditional structural analysis. The play consists of monologues and does not contain a cause-to-effect linear structure that would be considered "traditional." The play is still structured, however, and can be broken down into units and sections. While these sections give a basic linear structure to the play, there are still deviations, which are noted in the list below in italics. The plot structure is as follows:

#### Unit I- Pre-Incarceration

##### A. Case and Character Introductions

-Gary, Robert, Kerry, David, Sunny, Delbert

*\*The character introductions are interspersed with Delbert's poems. Also there is a section towards the end (page 24) of the unit where Robert and Georgia discuss racism.*

## Unit II- Incarceration

## A. Interrogations

-Gary, Sunny

*\*Delbert has a short speech about the effects of being "locked up" (33)*

## B. Trial

-Kerry, Sunny, David

## C. Thoughts of Execution

-Sunny, Delbert

## D. Effects of Prison

## 1. Psychological Effects

-Sunny, David, Kerry, Gary

## 2. Abuse

-Robert, Kerry

## E. While in Prison

-David, Sunny, Kerry

## Unit III- Exoneration

*\*Sunny begins the unit by expressing her change in attitude while in prison (60)*

## A. Getting Out

-Robert, Kerry, Gary, Sunny

*\*Sunny's speech leads directly to next section*

## B. After Release (Lingering Effects of Prison)

-Sunny, Delbert, David, Kerry (Sandra), Robert  
(Georgia), Gary (Sue)

*\*Sunny describes Jesse's brutal execution (74)*

C. Words of "Encouragement"

-Delbert, Sunny

*\*Delbert's poem ends the play*

While there is a basic plot structure in place, the stories jump around and do not flow in unison at all times. Since the stories of the people are told from their own words, it would have been impossible to create a completely linear plot structure with this style of play. There is enough simultaneity in the stories to see the flow of action, however there is also enough deviation from that basic structure to make it impossible to chart the dramatic action in a traditional way.

Because of the documentary style and unique structure of the play, it is difficult to pin down a major conflict within the play. There is no single protagonist, nor is there a tangible antagonist. It can be argued that the major conflict of the play is between the exonerated people and the system that incarcerated them, and that the conflict is inherent in their stories. Another take may be

that the major conflict comes from the exonerated people, and that the conflict is with themselves. Either way, the conflict comes through the stories of the exonerated people in an expository way, since it is the characters retelling the stories of the hurdles they overcame.

Since the play features six separate storylines, and six distinct main characters, there is no climactic moment in the play. Each of the stories have points of high tension and low tension, but not all of them have an event that could be considered a climactic moment. In the cases of Robert, Kerry, Gary, and Sunny, they each tell exactly how and why they were released from prison and exonerated. In their particular stories, this would be considered the climactic moment.

In the cases of David and Delbert however, neither man talks of being released. Both give an account of what happened after they were released, but neither story has a clearly defined climax. It can be argued that in David's case, his story of stopping the rain would be the climax of his particular storyline, though it is not clearly defined. Delbert is different however, in that his primary function in the show is not necessarily to tell his story. This is not to say his story is not important; but his function is

more choral in nature. His main function is to tie the stories together, and enhance them with his poetry, as well as his philosophical insights. Therefore his storyline does not contain a climax.

While it is not possible to do a traditional structural analysis of this play, there is a basic structure in place. The flow of the action is mostly linear in nature, and the stories connect to each other in several instances. Looking at the structure, it is also possible to break down the sections even further, by analyzing each character's story and finding the high and low points within them.

## CHAPTER 9

### FINAL PERFORMANCE TEXT

While there were not significant cuts to the text of the play, Paige decided to rework a good portion of it. She redistributed many of the lines from the memory scenes in order to allow the exonerated people to tell their stories more directly to the audience. Her goal in this was to allow the audience to listen more to the stories of the characters and not be distracted by the "theatricality" of the memory scenes. The lines that were redistributed were prefaced with lines such as, "He said," "The cop said," etc. when not indicated in the script.

*OPEN on a stage, bare except for ten plain armless chairs. These chairs can be used variously to set up scenes throughout the piece. The entire play can be performed using only these chairs. No further set pieces are necessary, although tables and other set pieces might work, too. The play is seamless: There are no blackouts during the performance, and no intermission. Unless otherwise noted, the exonerated people deliver their monologues to the audience. DELBERT can see the other exonerated people; unless otherwise noted, none of the other exonerated people see one another or DELBERT. At various points in the play, we see "scenes" illustrating the stories being told by the exonerated. These scenes exist in the exonerated people's memories, and unless otherwise noted, they should take place behind or beside the character telling the story.*

*DELBERT functions as a sort of Chorus, fading in and out of the action. He is a black man, sixty. His whole personality is like an old soul*

*song: smooth, mellow, but with a relentless underlying rhythm. He has a great sense of humor. He's from Chicago.*

DELBERT: This is not the place for thought that does not end in  
concreteness;  
it is not easy to be open or too curious  
It is dangerous to dwell too much on things:  
to wonder who or why or when, to wonder how, is  
dangerous.  
How do we, the people, get outta this hole, what's the way  
to fight,  
might I do what Richard and Ralph and Langston'n them  
did?  
It is not easy to be a poet here. Yet I sing.  
I sing.

*Lights up on SUE and GARY. SUE is GARY's wife. Farmer woman, salt of the earth. She has a very strong upper-Midwest accent—think Fargo.*

*GARY is a midwestern hippie in his mid-forties. He is an organic farmer. He was clearly in his element in the late 1960s and early 1970s. He is generally good-natured and quite smart.*

GARY: Gary Gauger This is my wife, Sue [beat; SUE waves]  
So my case—the day before, I had gone to work here; you  
see our workshop is a little building right over there. And it is  
about ninety-two percent recycled.

SUE: Even the shingles and the foundation are recycled

GARY: So anyway, I start my plants out there, and then in mid-  
March we move 'em out front to the hotbeds. So I would

come over here in the morning and work all day, and I'd go  
back for supper at night.

So anyways, that day, I went to work; my folks weren't  
around

SUE: But they had been planning a trip to Sugar Grove.

GARY: I just thought, "No big deal, they go away sometimes." By  
night, they didn't get home, I was worried about 'em. I said,  
"Jeez, they must've gotten in a car accident." But what do you  
do, call hospitals?

SUE: Oh, ya can't Ya can't. Not between here and Sugar  
Grove.

GARY: And the police, I knew, wouldn't investigate until they'd  
been missing for twenty-four hours. So I just basically stayed  
by the phone till midnight, went to bed.

Next morning, I got up to call the police, and a customer  
came walkin' up the driveway, looking for motorcycle parts,  
and in the back room, where we thought the part might be, is  
where we found my father's body.

Now, it looked to me like he'd suffered a stroke, because he  
was facedown in a pool of blood. And he obviously was  
dead. I felt his pulse.

So, all of a sudden, here's my father's body, my mom's  
been missing. So I called the paramedics, who called the  
police, who told me they suspected foul play

About an hour and a half later, they find my mother's body  
in a trailer out in front of the house. She had been killed and  
covered with rugs and pillows [pause] They had been hidden,  
and their throats were slashed

Two and a half hours after I found my parents, they had me arrested.

*Lights down on GARY and SUB, up on DELBERT.*

DELBERT: It is not easy:  
you stand waiting for a train  
or a bus that may never come  
no friend drives by to catch a ride  
cold, tired:  
call yourself a poet  
but work all day mopping floors and looking out for  
thieves . .

*Lights down on DELBERT, up on ROBERT and his wife, GEORGIA. ROBERT is a black man in his mid-thirties, hardened but not lacking a sense of humor, with a deep rural Mississippi accent. GEORGIA is also southern; loudmouthed, earthy, contentious, and extremely warm. Loves to speak her mind. The two of them overlap, finish each other's sentences, and otherwise play off each other whenever they appear together.*

ROBERT: Robert Earl Hayes 'This here's my wife—

GEORGIA: Georgia Hayes.

ROBERT [*sotto voce*]: Baby, they know your last name—

GEORGIA: I know, I just wanted to introduce myself. Go ahead.

ROBERT: Now, at the time that all this happened, I was working around the racetrack, takin' care of the horses you know And

at that racetrack, this white girl, she gets raped and killed. And you know, she be dating the black guys, and when she got killed, they ask me have I ever had sex with the girl. I told them yeah, they said—

~~WHITE COP 1:~~ Well, were you having sex with her that night?

ROBERT: I said no. Then they said—

~~WHITE COP 1:~~ Well, why does she like hanging out on the black side of the track?

ROBERT: So I said, "I don't know why she like hanging out back there, I guess we more fun "

But this girl, she got killed And the cop came to my job the next morning, they said—

~~WHITE COP 1:~~ We gotta talk to you.

ROBERT: I said okay, I went to the police station. And they kept saying—

~~WHITE COP 2:~~ We know what happened—

~~WHITE COP 1:~~ We know you asked her for a date, and she hit you—

~~WHITE COP 2:~~ —and you hit her back—

~~WHITE COP 1:~~ —and you didn't *mean* to hit her that hard

~~Lights down on cops.~~

ROBERT: They just came right after me. This white girl, me and she had dated, and you know people round here don't like that too much. An' in my first trial, I *knew* I was going to prison—I had eleven whites and one black on that jury.

GEORGIA: And do you think, seriously—now be honest—if the roles had been reversed, if it had been a black woman and a white man, it woulda been like that?

ROBERT: Right, 'cause let's go to another high-profile case.

GEORGIA. Oh, here we go—

ROBERT: Now within all y'all's hearts—now be honest—within your *heart*, do you really think O.J. committed that crime?

GEORGIA [*laughing*]. Well, but O.J., you know, I'm black and I *still* think he guilty, I'm sorry—I don't care what they say, if the DNA put you there, O.J., you guilty.

*Lights down on ROBERT and GEORGIA, up on KERRY and SANDRA. KERRY is an eager nineteen-year-old trapped in a forty-five-year-old's body, white, with a Texas accent. KERRY is an "up-talker"—he ends many of his sentences with a question mark. SANDRA is KERRY's wife, also Texan, very pregnant, very sweet, takes care of KERRY.*

KERRY Kerry Max Cook [*beat*]

SANDRA Sandra Cook.

KERRY It actually started when I was in the ninth or tenth grade: Me and my friends would, you know, act like we were going

to school and then run out the back door and start trying to find a car with the keys in it. And I had the misfortune that one of the cars that I stole, in my adventures to conquer the world, was the sheriff deputy's car and I, ah . . . wrecked it—driver's ed I didn't take—and, make a long story short, the deputy beat me for it.

And that was pretty much it—after that, any robbery, any broken window, any cat up a tree, everything was just *my fault*, as far as the sheriff was concerned.

And then, fast-forwarding, I'm nineteen, and I'm at this apartment complex in Tyler, Texas, called the Embarcadero—there's a swimming pool there, it's where all the hip people hang out. And I was an attractive guy, I dressed real nice. It was the seventies you know, man. I bought my clothes from the hippest place, like the Gap, and I had my hair styled real long, platform shoes and bell-bottoms. I looked tight. And I was walkin' towards the swimming pool, and there was this beautiful gorgeous girl, man.

[*to SANDRA*] Not as pretty as you.

SANDRA: Go on.

KERRY: But really *gorgeous*, man—just nude and fondling herself, right there in the window. So I look up and I go, "Oh my God, man . . . wow." 'Cause I had lived a very sheltered, naive life, I'd never even been to a strip club before—and I'm seeing this total complete mature woman, and I'm goun', "Okay, yeah, that's cool, man."

And so anyway, a couple days go by, and I'm back at the pool and there's this chick layin' out there. To make a long story short, we started talking, told her I was a bartender in Dallas—course I was working at a gay bar, but I didn't tell her

that—I'm just stretching everything as much as I can because I want to be all that plus a bag of potato chips. Anyway, we end up going back to her apartment . . . We . . . uh . . . you know . . . made out

SANDRA [to audience]: But not . . . all the way.

KERRY: Oh, no, no, no. I was in there for about maybe thirty, forty-five minutes, whatever, and I got cold feet because she was so aggressive, and I left.

And I didn't ever see or hear from her ever again until I'm arrested for her murder three months later, August of 1977.

~~Sound of a gavel. Lights up on KERRY'S DEFENSE, KERRY'S PROSECUTOR, and KERRY'S JUDGE. They speak facing the audience.~~

~~KERRY'S DEFENSE: Since June 10, 1977, Tyler, Texas, has been screaming and crying for someone to answer to this crime.~~

~~KERRY'S PROSECUTOR [thick Texas accent]: The State of Texas would object to that being far beyond the scope of this case.~~

~~KERRY'S JUDGE: I am going to sustain that objection.~~

~~Courtroom freezes.~~

KERRY: They had found a fingerprint of mine on her door frame.

SANDRA: And they had a fingerprint guy whose knowledge of fingerprints at that point was a six-month correspondence school—

*Courtroom back in action.*

KERRY'S PROSECUTOR [overlapping]: Lieutenant Doug Collins is an expert fingerprint technologist. He will testify that he found a fingerprint belonging to the defendant, Kerry Max Cook. It is as clear, ladies and gentlemen, as the day when you put your footprint on your birth certificate. That officer didn't have any reason to lie. He will narrow the time element of the leaving of those fingerprints—

KERRY'S DEFENSE. Objection, Your Honor.

KERRY [to audience]: You can't date a fingerprint; it's scientifically impossible.

KERRY'S DEFENSE: It cannot be proven what time those prints were made. This would place in the minds of the jurors that the defendant was there at the time of the murder!

KERRY'S JUDGE: Is that all you have?

KERRY'S DEFENSE: Yes, ma'am.

KERRY'S JUDGE: Your motion is overruled.

KERRY: That judge let them say, all through my trial, that I left that fingerprint there at the time of her murder.

And this next part has all been hidden for twenty years. Linda, the victim, had been having an affair with Professor Whitfield, the dean of Library Sciences over at the University, and *everyone* had just found out about it, he was fired from his job, lost his wife, lost his kids, whole big mess. And her room—

mate, Paula, had seen somebody in the apartment the night of the murder, who she said had silver hair, medium-short, touching the ears-fashion, wearing white tennis shorts. Well, that's that Whitfield.

In her police report, Paula says she sees Whitfield in the apartment that night and says—

~~Lights up on PAULA.~~

~~PAULA:~~ Don't worry, it's only me.

KERRY: —and goes to bed. But at the trial, she turns around and ~~says—~~

~~PAULA [pointing]:~~ That's the man right there.

KERRY: —and points at me.

~~Lights down on PAULA and courtroom.~~

KERRY. And my lawyer didn't even argue with that My court-appointed attorney was the former DA who jailed me twice before. He was paid five hundred dollars by the state, and in Texas you get what you pay for

*Lights down on KERRY and SANDRA, up on DELBERT.*

DELBERT: It's not easy to find some quiet place.  
Some grace. No time  
to talk about dreams  
in this world

where ice  
is everywhere.

*Lights down on DELBERT, up on DAVID.*

DAVID: David Keaton.

At the time they pulled me in, I was in high school. I had a lotta thoughts of what I was gonna do, where I was gonna go, where I should be, ten years from there, you know. I was, as some might say, I was called to the ministry.

But I mean, the way they picked me up—me and some friends was comin' from a movie that day and we saw a big commotion, and we said, "Man, what's goin' on?" So we run down, and the cops are all round here, shinin' their lights up on my grandmother's house.

And we was just standin' there watchin', and the cop says—

~~Lights up on DEPUTY.~~

~~DEPUTY:~~ Do any of y'all know David Keaton?

DAVID. And boy, here I am like a nut. "I am he."

So they took me down to the station and interrogated me, askin' me about this robbery, and I just kept sayin' to them over and over, "I don't know what you're talkin' about. I don't know what you're talkin' about. I don't know what you're talkin' about." But they locked the doors, they held me incommunicado, as you might say.

When they first brought me into the jail, one of the deputies asked the sheriff at that time—

~~Lights up on SHERIFF CARROLL.~~

~~DEPUTY [Southern accent]:~~ You gonna keep him?

DAVID: And the sheriff said—

~~SHERIFF CARROLL [black southern accent]:~~ You're goddamn right, we gonna keep him

DAVID: The sheriff was running for reelection at the time, and this was a big unsolved crime, so he had to bring somebody in for it. And they're tellin' me what happened in the crime, who was standin' where and all of that, and I mean, I don't even know what the store looks like, and they're yellin' at me, tryin' to get me to describe it

*Lights dim slightly on DAVID throughout the following.*

DEPUTY: This interview is being given with Deputy Sheriff H. M. Carroll. Mr. Carroll, if you will, explain to me the events that took place at Luke's Grocery on September 18, 1970, as they relate to the case of David Keaton.

SHERIFF CARROLL: Well, about two-thirty, Officer Khomas Revels and myself went in. I went over to the tobacco counter to get some chaw and he walked on back toward the milk case. And then I heard a nigger tell him, "Get on over there, I ain't got no time to fool with you," so I walked on around to where Khomas was at. And this boy, he had a gun, just said, "Don't give us no trouble." And he had, ah, kind of an Afro haircut, not a full Afro, but he looked like he was tryin' to grow him some Afro hair. And he had a little mustache, best I

can remember—I mean everything was goin' so fast there. And the other one that was standin' over where they had about five or six customers tied down, he was around six foot tall. And the third son of a bitch—on his forehead, looked like he had, I don't know, you've seen them with kind of a scar someumes?

DEPUTY: Oh yeah

SHERIFF CARROLL: Anyway, they told us to give them our money. So we did, 'bout thirty-two dollars, and then they said, "We want them watches, too." Well, we didn't either one of us pull our watches off.

And they told us to lay down. So we did, and one of them, he reached over to get him some panty hose to tie us up with—but myself and Khomas, we came up and tackled them. Ain't nobody gonna be tyin' me up with no panty hose. And so the other one, he come runnin' down shootin' at us.

They must have shot eighteen or twenty bullets during the ruckus there, and the two hit me, and the two hit Khomas. And I could see that he was dead [*extended beat*]. And the niggers, they just disappeared.

DEPUTY: Mr. Carroll, in listening to these people talk in the store, did they have any type of accent? Did they sound like local people, or were they from out of state?

SHERIFF CARROLL: Naw, they just sounded like regular niggers to me.

*Lights down on DEPUTY and SHERIFF CARROLL, full up on DAVID.*

DAVID: And I was just eighteen, I didn't know the rules. And they kept on talkin', and they were threatenin' me, and all that. And I was afraid. I mean, they would go in there and beat you up, mess you up, hang you up, nobody'd ever hear nothin' else about you. And so I say, Okay, to prevent that, I'm gonna go ahead and confess to the crime. I know I'm tellin' the truth, and the witnesses are gonna know too, 'cause I just wasn't there and they would have seen that. So I'm like, I'm gonna let them go ahead, they gave me all the information already, so all I do is put some names to the spots and then we all can be free.

*Lights down on DAVID, up on SUNNY.*

SUNNY: Sunny Jacobs *(beat)*

In 1976, I was sentenced to death row, which for me wasn't a row at all, because I was the only woman in the country who had the sentence of death. So I suggested they put me in the same cell as my husband!

But let me start at the beginning *(beat)*

When I was twenty-six, Jesse and I had been together for three years. We weren't officially married, but I considered him my husband, you know. Our daughter had just been born, and Jesse said he was gonna get himself a regular job, maybe painting murals or something, but he just needed to go to Florida one last time to do a little deal.

Now, I didn't want to know about this deal, because I knew it wasn't positive; it wasn't violent, but it wasn't positive. And finally he calls and says that the deal fell through, and not only is he broke and has no way home, but he's staying with some girl! So, of course, me, instead of saying, "Well, when you get it together, me and the kids will be here waiting for you," I said, "I'll be right there to getcha!"

My son Eric was nine, and I was driving, shifting, singing, and nursing Tina all at the same time. It was like driving through the ten plagues, you know, the first being the oil leaking all over the road, and the final one—you know those lovebugs that smash themselves on your window?

So anyway, we get there, get Jesse, the car dies, and we're all stuck in Florida. And so Jesse says he'll ask this guy he knows if we can stay with him until we can scrape the money together to get home.

And that's when I met Walter Rhodes.

So we're all stuck in Florida, staying at Walter Rhodes's apartment. And it was a real sleazebag place: I mean, he was obviously doing illegal activities.

*Lights up on JESSE and RHODES.*

~~JESSE: Hey, Rhodes, we're gonna take off. Could you give us a lift to my friend's over in Broward County?~~

~~RHODES: I don't know, man, it's late. I don't know if I want to be on the road.~~

~~JESSE: Come on, man, nothing ever happens in Broward!~~

~~Lights down on JESSE and RHODES.~~

SUNNY: And it was so weird—my son Eric woke up screaming in the middle of the night. He had this nightmare that something terrible was going to happen to us. And it did.

*Lights down on SUNNY, up on DELBERT.*

DELBERT It's not easy  
to feel good in winter winds  
when ice is everywhere  
and you just wanna sing . Copyright 1997, Delbert Tibbs . .  
I'm Delbert Tibbs.

I'm a child of the sixties and the seventies, right? So, much  
of the philosophy that people were motivated by during those  
times I was, and continue to be, motivated by. I have an on-  
going—an *abiding* interest in things philosophical and/or  
metaphysical; I won't say religious . .

And so, you know, in 1972, I went to seminary for a year  
and a half, but the racism there was so pervasive you could  
cut it with a knife. So I decided that the seminary wasn't  
gonna take me where I wanted to go, so I dropped out and  
started roaming America. We called it "tunnin' in." Tune in,  
turn on, an' drop out. And I haven't turned off for a long  
time.

So that's where I was at—and I happened to be in Florida  
when some crazy stuff happened, a guy was killed, a young  
woman was raped, and I happened to be in Florida.

And I knew that some folks were gonna say—

~~Lights up on SOUTHERN WHITE GUY.~~

~~SOUTHERN WHITE GUY~~ Now what's this nigga doin' here, and  
who is he, an' why is he here?

~~Light down on SOUTHERN WHITE GUY.~~

DELBERT. —and so forth, but my attitude was fuck that, you  
know? I'm an American citizen, and I've served in the armed  
forces of the United States, and all that kinda shit.

The point I'm trying to make is that in my mind I decided  
that I was gonna be free in terms a my movements. That I  
was gonna go wherever I wanted to go, in these United States,  
an' whatever came out of that, if there was trouble, then I  
would deal with it when it came. And sure enough . .  
[chuckle] sure enough, trouble came.

[beat] Because this *crime* had occurred, and I was on the  
highway in Florida, so I was stopped and questioned, and the  
captain wrote me out a note sayin'—

~~Lights up on WHITE COP 1.~~

~~WHITE COP 1 [unnaturally fast robotic monotone]~~ This person was  
stopped by me on this date and I'm satisfied that he's not the  
person wanted in connection with the crimes that occurred in  
southern Florida.

~~Lights down on WHITE COP 1.~~

DELBERT. Now, initially, the girl who survived the thing de-  
scribed the murderer as a black man about five six, very dark  
complexion, with pockmarked skin and a bush Afro [beat]  
Now that don't fit me no matter how you draw it—except  
racially. That's the only thing we had in common. We're both  
black men.

But now it's like two weeks or something after the crime  
has occurred, and they gotta find *somebody*, 'cause the small  
town is in hysterics, you know? 'There's a nigger running  
around killing white men and raping white women, and you  
can't have that [beat] Understandably.

So anyway, the cops stopped me again, and I said, "No, I'm  
not." I said I was stopped in Florida—

~~Lights up on WHITE COP 1.~~

~~WHITE COP 1 [again, unnaturally fast robotic monotone]:~~ This person was stopped by me on this date and—

~~Lights down on WHITE COP 1, up on WHITE COP 2.~~

DELBERT [~~interrupting~~]: and to the satisfaction of the Florida Highway Patrol, I'm not the person that you're looking for. He says, in effect—

~~WHITE COP 2:~~ Bullshit.

DELBERT: He says—

~~WHITE COP 2:~~ You're Delbert Tibbs, I have a warrant for your arrest.

DELBERT: And they arrested me in Mississippi.

~~Lights down on DELBERT and WHITE COP 2, up on ROBERT and GEORGIA.~~

ROBERT [*to GEORGIA*]. I mean, I might as well be wearin' a sign that says ARREST ME. I'M BLACK.

GEORGIA [*to audience*]. It's always somethin'. I mean it's not all police officers, it's not all white people. but it's those few that make the rest of them look so bad—

ROBERT [*to audience*]. But I mean, hypothetically speaking, if me and a white woman have an altercation, the cop gonna say,

"Well, it's okay for her." But for me, all she got to say is, "He touched my breast. He touched my booty," and there go the wildfire.

GEORGIA: It's not only just whites; it's blacks too—

ROBERT [*interrupting*]: Not to cut you off, but one night, me and a white guy, we were sitting at a gas station. We were just sitting there talking, and a white cop came back around to talk to us.

~~Lights up on WHITE COP 1 and SOUTHERN WHITE GUY.~~

ROBERT: And he didn't ask me was I having a problem, he asked the white guy was *he* having a problem. He says—

~~WHITE COP 1: I see both you guys talking and moving your hands.~~

~~ROBERT: And you know, the black person talk with his hands, if you guys haven't noticed. The white guy, he said—~~

~~SOUTHERN WHITE GUY:~~ No, me and Robert just sitting up here talking.

ROBERT: And the cop said—

~~WHITE COP 1:~~ Do you know Robert?

~~SOUTHERN WHITE GUY:~~ Yeah, I been knowing him for the longest

ROBERT: But the cop said—

~~WHITE COP 1:~~ Oh, I thought he was harassing you.

GEORGIA: *Okay?!*

~~Lights down on WHITE COP 1 and SOUTHERN WHITE GUY.~~

ROBERT: I mean, God put everyone on earth—God put the ass, He put the fleas—but there's a lot of white people that make me upset. But I'm not gonna call them Crackers and go and get my cousin and all that.

GEORGIA [*sotto voce, overlapping*]: No, don't get your cousin; your cousin crazy

ROBERT: I think if anyone have anything against anyone in this country, it should have been the Indians. But I do think now, these days, it's a lot better, especially in Mississippi because if it wasn't, I'd be sittin' here sayin', "Yes ma'am, Miss Daisy." Maybe it's goin' away—

GEORGIA [*interrupting*]: But Robert— [*to audience*] Okay, in my opinion, you never gonna get rid of it. My father taught me, things are passed down from generation to generation, and if the older generation teach the younger generation, then it ain't never gonna go away.

*Lights down on ROBERT and GEORGIA, up on DELBERT.*

DELBERT No time in this world to talk about dreams, no space to place words in some lovely configuration; deliberation is not the method

for passage through these woods  
cold, tired  
if you dream in this world  
it is dangerous

*Lights down on DELBERT, up on SUNNY.*

SUNNY: My son Eric couldn't sleep because of the nightmare, and I just couldn't stay with Rhodes another night. So finally Rhodes agreed to give me, Jesse, and the kids a ride

And we left, but the traffic got bad and it was getting late, so the decision was made to pull off the road until morning

*Dim light up on BLACK COP, JESSE, RHODES.*

SUNNY: And according to the police reports, the cops came to do a routine check on the rest area. And when they look in the window, they see a gun between Rhodes's feet. They order him out of the car and ask for his ID. The policeman calls in the ID information, and then tells Rhodes—

~~BLACK COP:~~ Stand over there, I'm finished with you.

SUNNY: And then they ask my husband Jesse to get out.

And then the police radio comes back with the announcement that Rhodes is on parole—and possession of a gun is a parole violation.

And that changed everything. The policeman drew his gun. He said—

~~BLACK COP:~~ Okay, the next one to move is dead

SUNNY: It all happened so fast, you know. I just ducked down to cover the kids.

~~Sound of four loud gunshots.~~

SUNNY: And then it was silence. I mean *dead silence*. There wasn't an earthly sound.

And then Rhodes runs around the front of the police car with a gun in his hand, and he's saying—

~~rhodes:~~ Come on, we're gonna take the police car!

SUNNY: I mean, Rhodes had just killed two policemen, had a gun, and was telling us to get in the police car. And, you know, people say, "Why didn't you just refuse to go?" And I think, You've never been at the other end of a gun, have you?

So we get in the police car. We couldn't speak

~~Sound of cars honking/helicopters.~~

SUNNY: We were kidnapped at that point, and we just didn't dare.

But then all of a sudden, the traffic gets terrible, and you can hear the helicopters, and I know there must be a roadblock. "Hey, we're gonna be *rescued!* Help is on the way, you know, the cavalry!"

And out of nowhere, Rhodes make a sharp left to try and avoid the roadblock—

~~Sound of heavy gunfire.~~

SUNNY: —and this whole line of policemen opens fire on the car. The car was literally bouncing with all the bullets. So again I cover the kids. And finally we crash.

~~Sound of crash/sirens.~~

SUNNY: And a bunch of cops surround us, and I'm trying to explain that we were kidnapped, but they just wouldn't listen.

*Lights shift; we are now in SUNNY's interrogation room.*

WHITE COP 1: All right. Sonia, or do you want me to call you Sunny?

SUNNY: It doesn't matter.

WHITE COP 2 [*interrupting, to SUNNY*]: Do you know what the date today is?

SUNNY: I think it's the twentieth.

WHITE COP 2: Is it Friday?

WHITE COP 1 [*jumping in*]: Let me inject one thing here. Are you aware of the fact that you have been charged and arrested on first-degree murder?

SUNNY: [*beat*] You just told me now.

*Lights down on SUNNY and COPS, up on GARY.*

GARY I took a polygraph test around midnight. They wouldn't let me sleep, wouldn't let me lie down—and the polygraph examiner said he cannot pass me because of flat lines due to *fatigue*. Well, *duh*, it's midnight, I'd been under questioning now for six hours, and my parents had just been *murdered*.

About one a m., they got three or four photos of my parents with their heads pulled back—you could look down their throats—and the detective's yelling—

~~Lights up on cops.~~

~~WHITE COP 1~~ How could you do this?

~~WHITE COP 2 [overlapping]~~ How could you kill this woman?

~~WHITE COP 1 [overlapping]~~ The person who gave birth to you!

~~Lights down on cops.~~

GARY: And this is how the interrogation went I was in such a vulnerable and suggestible state from finding my parents and not knowing what happened I was emotionally distraught, I was physically exhausted I was confused I had fifteen cups of coffee I was spaced-out And the police used that They said they had all the evidence, that they didn't even *need* my confession They said they had bloody fingerprints, the weapon, everything I was brainwashed, man They told me—

~~Lights up on WHITE COP 1 and WHITE COP 2~~

~~WHITE COP 1 and WHITE COP 2 [in unison, very friendly]~~ We can't lie to you, or we'd lose our jobs

GARY. They seemed very sincere. too Very believable They started making me think I had a blackout and actually done it. I said, Look, if I killed my parents, I want to know about it

So I said, Okay, if I could construct the situation in my mind—*[small beat]* I finally volunteered to give what they call a “vision statement”—a hypothetical account of what I would have done if I had killed my parents—

~~cops: To try and jog your memory~~

GARY: —to try and jog my memory

~~Lights down on WHITE COP 1 and WHITE COP 2~~ GARY begins “vision statement,” trying to put it all together.

GARY: Well, I guess I would've gotten up that morning—

*Lights up on WHITE COP 1.*

WHITE COP 1. *[testifying on the stand. Sure of what he's saying. His lines overlap tightly with GARY's—in the following section, the actors should speak over the ends of each other's lines.]* The defendant stated that he got up that morning—

GARY And my mom would've been out in the trailer—

WHITE COP 1: —and that he looked outside and saw his mother in the trailer

GARY Then I woulda gotten dressed—and I would've had to have a knife in my pocket or something—

WHITE COP 1: And he indicated he put his pants on, and he had a knife in his pants pocket

GARY I guess I would've gone over to the trailer she was in—

WHITE COP 1 Then he walked up to the trailer and stepped onto the porch

GARY: —and walked in—

WHITE COP 1 He said he opened the door, he walked in.

GARY I would've had to have reached out toward my mom—

WHITE COP 1. He reached up and he grabbed his mother with his left hand and cut her throat with his right.

*Lights down on WHITE COP 1.*

GARY [*beat*] I never would've hurt her

*Lights shift.*

GARY. They used that vision statement for a confession.

And they wouldn't let me say anything besides how I would've done it. Anytime I tried to say anything else, they would just holler at me, and holler at me, and holler at me.

After I made the statement about my mom, I cried for about three minutes, and then I told them how I would have killed my father. And then I said—I told them—"This is just hypothetical. I have absolutely no memory of any of this."

The autopsies showed that everything I said in those state-

ments was wrong. But nothing was written down, nothing was recorded. At the trial, they said that I was never under arrest, I was free to go at any time, that I had voluntarily "chatted" with them for *twelve hours*, and then suddenly blurted out facts that only the killer would know.

*Lights down on GARY, up on DELBERT.*

DELBERT: Well, yeah, man, it definitely has an effect on you for people to lock you up. First of all, it shows you they have the power to do it, and then they tell you they're gonna kill you, you know, and you're inclined to believe them. [*chuckles*] So it definitely messes with your sense of personal power, you know what I'm saying?

*Lights up on SUNNY, down on DELBERT.*

SUNNY [*to audience*] So I actually did at first try to lie, and I told the cops I didn't know these people, I was just a hitchhiker. Stupid. Because of course they think you're lying because you did something. But I was just scared.

*Lights shift; we are back in SUNNY's interrogation room. COPS keep the pressure intensely, relentlessly high on SUNNY throughout the following.*

WHITE COP 2: Let me ask you point blankly. Who shot the Highway Patrolman and the other officer?

SUNNY. I don't know.

WHITE COP 1: Did you shoot the Highway Patrolman?

SUNNY. No!

WHITE COP 2 Sunny, did you shoot anyone?

SUNNY: No

WHITE COP 1 [*yelling*] DO YOU KNOW IF SOMEONE WAS SHOT?!

SUNNY. I'm sorry. People were shot. The patrolmen were shot and that's what this is all about—I don't know—

WHITE COP 2 [*jumping down SUNNY's throat*] Well, how do you know that the two policemen are dead?

SUNNY. You said. That's what we're here for.

WHITE COP 2. Okay. We advised you that they were dead because we had— [*continues to talk over SUNNY's next line*]

SUNNY. I didn't see. I didn't see—

WHITE COP 2 [*talking over her*] —we had to read you your rights and it's imperative that you relate the facts of this to the best of your ability. Something caused you to be very disturbed. What was that something?

SUNNY [*breaking down*] This is very upsetting because how does—this guy, he told—he just told us to sit in the car, you know—and I'll stay here and I won't make any calls and I— I haven't done anything except the wrong choice of people and I—

WHITE COP 1 [*very close to SUNNY*] But you do want to cooperate with the state of Florida?

SUNNY. Yeah, I—

WHITE COP 2. You're not *being* too cooperative, because you're saying a lot of things you don't even remember and yet you were there. You were there, Sunny.

SUNNY. I'm sorry, I—I know but I never had anything like this happen to me before. I just—I don't want to be blamed for something that I had nothing to do with and I don't want them to take the kids away and I—'cause the baby's crying and crying and crying and Eric's scared and I—I do want to help I—

WHITE COP 1: All right, Sunny, I want you to help us.

SUNNY: Because I don't—I don't know what this guy was up to and I don't want to be pulled into it, but do you understand I'm trying to cooperate with—

WHITE COP 1 [*condescending to her*] Yes, sweetheart, I fully understand this.

SUNNY: And if I can't tell you everything you need to know please don't be angry with me.

WHITE COP 2. Okay, okay. (*beat*) Is there anything you care to add to your statement at this time?

SUNNY. I can't think of anything but if I do I will.

WHITE COP 1 [*an accusation*]: All right, are the answers you've given true and accurate to the best of your knowledge? [*beat as SUNNY considers whether to tell the truth, then yelling*] ANSWER ME!

SUNNY: [*lying*] Yes.

*Lights down on COPS; we are out of SUNNY's interrogation room.*

SUNNY: And what I didn't know was at the same moment I was being questioned and Jesse was being questioncd, was that Rhodes, from his hospital bed, was negotiating a deal. He'd been in prison before, he knew how the system worked. And so he was claiming that he didn't do it—we did.

*Lights down on SUNNY; up on SUNNY'S PROSECUTOR and RHODES.*

SUNNY'S PROSECUTOR: Okay, Mr Rhodes Who had the gun in their hands when the first shot was fired?

RHODES [*overly helpful, exaggerating*]. When the gun first went off, Sonia was the one holding the gun [*then scrambling*] This is to the best of my knowledge, I am not one hundred percent sure. To the best of my knowledge, she fired two shots, I believe then Jesse pulled the gun from her and shot him one more time and then he shot the other cop twice.

SUNNY'S PROSECUTOR: Let me recap this now To the best of your recollection, Sonia fired?

RHODES. First.

SUNNY'S PROSECUTOR: It is your testimony here that Sonia fired the first three shots at the Florida Highway Patrolman?

RHODES: Either the first two or three.

SUNNY'S PROSECUTOR: Two, or three?

RHODES: Two for sure

SUNNY'S PROSECUTOR: And then what took place?

RHODES: Then I started to go toward my car, to get in. It didn't even enter into my mind, but Jesse said, "Get in the police car We have got to get out of here," or something, and I said, "No," you know, "*what happened?*" Anyway I did get in the police car, I was damn near in shock myself

SUNNY'S PROSECUTOR: Thank you.

RHODES: No problem.

*Lights down on RHODES and SUNNY'S PROSECUTOR, up on DELBERT.*

DELBERT: So I'm sitting there in Mississippi. After a couple days of being locked up, I decided I would waive extradition. Now this was because of my spiritual growth. A friend of mine has something he calls his "nigger radar," right, which sort of alerts him when, as he quotes Darth Vader, when there's a "disturbance in the force."

But I'm operating on another thing, you know, 'cause a lotta the *tension* I had felt regarding race had sorta been

washed away. I had achieved some sort of spiritual . . . plateau, if you will, by living out on the road.

I wasn't expecting any problems. I had been befriended by all kinda people—mostly white folks, 'cause there weren't no black folks around. I hitchhiked across Texas, which is as big as Russia, you know what I'm sayin'? And I got *one* ride from a brother. Brother picked me up. He said—

~~Lights up on black out 1.~~

~~BLACK OUT 1:~~ Man, you know brothers don't hitchhike out here too much.

DELBERT: I know, but I don't have any money, what am I gonna do

~~Lights down on black out 1.~~

DELBERT. Anyway, I waived extradition to Florida, meaning I voluntarily went back. If I hadn't done that, I don't think I would've ever gone to death row, 'cause the state of Florida really didn't have a case. Nobody had seen me there, there was no connection between me and the place where the crime occurred, fingerprints, none a that—'cause I *wasn't* there.

And in Florida, as in most places, the jury is chosen from the voting records. And this is 1974—black people had only had the right to vote since 1965—and this is a backwater town, where it's run sorta like a plantation and the folks in charge are the folks in charge, right?

And as I sometimes tell people, if you're accused of a sex

crime in the South and you're black, you probably shoulda done it, you know, 'cause your ass is gonna be guilty. And they found me guilty.

~~Lights down on DELBERT, up on courtroom, sound of a gavel being hit.~~

~~ROBERT'S JUDGE [thick southern accent]: [bangs gavel] Gentlemen, you have the right to remain silent. Anything you say can and will be used against you in a court of law. If you cannot afford an attorney, one will be appointed for you. Does everyone understand that? [beat]~~

~~You can answer that question. [small beat] Yes? [murmurs from seated group] Good. Robert Hayes.~~

~~COURT ATTORNEY: He's in the first chair, Your Honor.~~

~~ROBERT'S JUDGE: Mr. Hayes. [no response, then beat] Mr. Hayes.~~

~~ROBERT [very softly, laid down]: Yeah.~~

~~COURT ATTORNEY: Your Honor, he hears the court. He just doesn't want to show his face to the cameras, which is—~~

~~ROBERT'S JUDGE: I want him to respond to me. Mr.—~~

~~ROBERT [looking up]: I said yes.~~

~~ROBERT'S JUDGE: Okay, Mr. Hayes, you're charged with murder in the first degree. We find probable cause the accused committed the offense. He'll be held on no bond.~~

~~COURT ATTORNEY: Your Honor, Mr. Hayes has indicated that he does not wish to speak to anyone from law enforcement without an attorney present.~~

~~ROBERT'S JUDGE: Okay, Mr. Hayes, can you afford a lawyer?~~

~~ROBERT: No.~~

~~ROBERT'S JUDGE: Are you employed?~~

~~ROBERT: I was.~~

~~ROBERT'S JUDGE: Do you own any property?~~

~~ROBERT: No.~~

~~ROBERT'S JUDGE: Do you have any bank accounts?~~

~~ROBERT: No.~~

~~ROBERT'S JUDGE: Do you have an automobile?~~

~~ROBERT: No.~~

~~ROBERT'S JUDGE: The court will find that Mr. Hayes is indigent. Appoint the public defender to represent him.~~

~~Sound of a gavel.~~

~~COURT ATTORNEY: Thank you.~~

~~Lights down on courtroom, up on DELBERT.~~

DELBERT: This is a weird country, man, it really is. It always amazes me when I talk about this. I say, "How do you figure this, now: all these guys, they been to Vanderbilt and to Yale and to Princeton and Harvard and shit, they look at the same information and they come up with diametrically opposite conclusions. Figure that out."

So it doesn't have anything to do with one's intelligence, it has to do with one's preconceptions, with one's *tendencies*, and how one looks at other human *beings*—you see, *that's* what it's about.

*Lights down on DELBERT; up on KERRY, KERRY'S PROSECUTOR, KERRY'S DEFENSE, and KERRY'S JUDGE.*

KERRY: So they had a lead that the victim's boyfriend, Professor Whitfield, had done the murder. But they didn't go after him; they went after me. They said the crime was done by a homosexual maniacal murderer who hated women. The prosecution accused me of bein' a homosexual—before the jury—

KERRY'S PROSECUTOR [*thick Texas accent*]: A young woman lies in her grave not far from this courtroom, butchered, because of Kerry Max Cook's warped homosexual lust for blood and perversion—

KERRY'S DEFENSE: Objection, Your Honor. The defendant's alleged homosexuality has nothing to do with the allegations in the murder indictment.

KERRY'S JUDGE: Objection will be overruled.

KERRY'S DEFENSE: We would then request an instruction to the jury that they cannot consider—

KERRY'S JUDGE: That motion is also overruled—

KERRY'S DEFENSE: We would then request the Court to declare a mistrial in this case—

KERRY'S JUDGE: *Overruled.* Proceed, Counsel.

*Lights slowly go out on KERRY'S DEFENSE and JUDGE during the PROSECUTOR'S speech. Lights remain up on KERRY and PROSECUTOR.*

KERRY'S PROSECUTOR: Thank you, Your Honor.

[*to audience; with crescendoing fervor*] Ladies and gentlemen of the jury. I would be remiss in my duty if I did not show you every last grotesque detail, because the killer sits right before you in this courtroom and it is time for twelve good people from this county to put that man on the scrap heap of humanity where he belongs. He has a warped perversion and he will not reason with you. The victim was a young woman just beginning to realize her dreams, and he butchered her body. This is the kind of sick perversion that turns Kerry Max Cook on.

You people have no right to even submit prison guards to the kind of risk that man poses. Think about it. Do you want to give this pervert his butcher knife back? Now, we must look upon it as putting a sick animal to sleep. Kerry Max Cook has forfeited his right to walk among us. He no longer has rights.

So let's let all the freaks and perverts and murderous homosexuals of the world know what we do with them in a court of justice. That we take their lives.

*Lights out on KERRY and KERRY'S PROSECUTOR; up on SUNNY.*

SUNNY: My husband Jesse was tried first, and he had a past record, from when he was seventeen years old, and his trial lasted four days. We both had, of course, no good attorneys, no dream team, no expert witnesses, and so he was convicted, and sentenced to death.

My trial came later. I thought, Surely that won't happen to me. I mean, I was a hippie. I'm one of those peace-and-love people. I'm a *vegetarian!* How could you possibly think I would kill someone?

And so I thought I'd go in, they'd figure out I didn't kill anyone, and they'd let it go. But that's not how it works. There was prosecutorial misconduct, there was hiding of evidence that would have proven I didn't do it. The jury wasn't even allowed to know that Rhodes accepted a plea bargain of three life sentences in exchange for his testimony! Now, I don't think three life sentences is a bargain. Nobody I know would think it's a bargain.

And I didn't have any investigators, I didn't have any expert witnesses, I didn't have thousands of dollars. My parents said, "Well, you know, we were told we could try and get you a better lawyer, but you *have* a lawyer—they've *appointed* you one—so it's okay." We didn't know.

*Lights down on SUNNY, up on DAVID, DAVID'S PROSECUTOR, and DAVID'S DEFENSE.*

DAVID'S PROSECUTOR: The State respectfully submits to this jury that in that grocery store, David Keaton actually fired at Sheriff Carroll in order to come to the assistance of his co-defendant, who was in the process of cold-bloodedly murdering and killing Officer Khomas Revels. It's just as clear and simple as that. As a matter of fact, that is actually the truth.

DAVID'S DEFENSE: It was a quiet and peaceful Sunday night before David Keaton, then eighteen years old, was speedily whisked away to Quincy Jail. He was not told the reason for his arrest, nor was his family informed.

DAVID'S PROSECUTOR: They're gonna tell you that all of Keaton's answers were suggested by the officers, that he was framed. Not by one officer, now; not by two officers, but by three or more state and county law-enforcement officers.

DAVID'S DEFENSE: He was questioned without benefit of counsel, despite his request to his interrogators to call his mother and obtain legal assistance. At eleven p.m., Keaton was taken to the jail in Tallahassee, where questioning resumed and continued until the next morning.

DAVID'S PROSECUTOR: Now, Keaton could have said in his statement anything he wanted to. There was nobody making those defendants say anything, and this jury knows anyway that of course that would be impossible, impractical. You just can't *make* somebody say something; nobody can!

DAVID'S DEFENSE: There is a law in this state that any person arrested shall be taken without delay and have the charges read in open court. The defendant was arrested on a Sunday. Well, this courthouse is open on Monday, and it's open on Tuesday, Wednesday, Thursday, too. The defendant was not taken before a judge until Friday, although he had been arrested the Sunday before.

Now, I have nothing but respect for the deputy sheriffs, but I recognize, too, that it was a member of their staff that was

killed. Wouldn't it be understandable for them to be more . . . *emotionally involved* in the investigation?

*Lights down on DAVID, DAVID'S PROSECUTOR, and DAVID'S DEFENSE, up on SUNNY.*

SUNNY: They tell you exactly how they're gonna do it. They're gonna send twenty-two hundred volts of electricity through your body until you're dead. And then they ask you if you have anything to say to that, and really it's kind of dumbfounding. So after the judge read the sentence, I just said, "Are you finished?" I didn't have anything to say. What do you say? How can you say anything to that?

*Sound of a cell door slamming shut. Lights up on DELBERT, down on SUNNY.*

DELBERT: I don't remember any of my dreams from when I was on death row. I almost never recall my dreams, which I am absolutely fascinated by.

When I was at the University of Chicago, I took part in a laboratory experiment. They were running a test to see if creative people's dreams differ from those who are less creative. And so of course, it appealed to the ego in me, thinking somebody thought I was creative.

So you go to bed in the lab and they are monitoring your respiration and your REM and so forth. And they would wake me up over the microphone, and it always sounded to me like one of the Nazi doctors 'cause he had an accent, you know, he would be like, "MISTA TIBBS, YOU VERE DREAMINK." And I wanted to say, No shit.

But the fascinating thing was, when the motherfuckers hooked me up, they put the receptors by your ears, right exactly at the same place they do when they're getting ready to execute your ass.

*Lights down on DELBERT, up on SUNNY.*

SUNNY. Instead of sending me to be Jesse's cellmate, they decided to clear out an entire disciplinary unit at the women's prison. It's a very old prison, it's like a dungeon-type place. It was six steps from the door to the toilet bowl—you could stretch out your arms and touch both walls. They take your clothes, they give you a number, so basically they're taking . . . who you *are* from you. You no longer have a name, you're a number. You're locked inside this *tomb*. It's like you're thrown to the bottom of the well.

*Lights down on SUNNY, up on DAVID.*

DAVID. There was one woman, lived across the street when I was a little boy, she had a goiter on her neck. And I was sayin', "Lord, if I only had the power of the Spirit, I would go lay my hands on her and her illness would disappear." And that's all I want, just to let the Spirit be operatin' through me, whether it be knowledge, discernment, speak the Word, or whatever [to God] I would love to just do that before I die.

I had a relationship to God when I got in here, but somehow I've lost it. I guess I'm still reachin' out to find it—you know, I said some nights now I wanna light me a couple candles, lay back and just meditate, 'cause they say the kingdom of God is within you, isn't it? You know, everybody lookin' for something outward, but then, that light's *within*

you, that voice we speak to . . . [*whispering God's voice*] "C'mon, boy."

Give you the chills when I say that, right?

*Lights down on DAVID, up on KERRY.*

KERRY: You know, when I was in there, I saw a hundred and forty-one guys go down. All's I got to do is pick up the newspaper, turn on the news, "such and such becomes the two hundred and twenty-second inmate executed resulting from capital punishment," and I hear the name and I say, "Oh my God," 'cause I know him. I mean, I don't just *know* him, I *ate* with him, I *cried* with him, we used to play basketball and talk about "Man, you're gonna go free."

You know, I got a book, a book about Texas death row, and seriously, this book is what, five years old, and everyone in here has been executed. I can go through that book, one by one, and point out every face in here that's gone.

~~INMATE~~ Executed.

~~Sound of a switch being thrown.~~

~~INMATE~~ Executed.

~~Sound of a switch being thrown.~~

~~INMATE~~ Executed.

~~Sound of a switch being thrown.~~

KERRY: And you know, at a capital trial, the prosecutors always

say, "He's dangerous, he's a maniac, the sick, twisted murderer." But I'm no different from you—I mean, I wasn't a street thug, I wasn't trash, I came from a good family—if it happened to me, man, it can happen to anyone.

*Lights down on KERRY, up on GARY.*

GARY. I was in X house—the execution house. That place was like somethin' out of a movie. There were no guards. They would just open your cell door and let you run around. I guess they figured you were gonna die anyway, so why not.

So you can walk around through this dimly lit series of corridors, and through the observation room, into the execution room. That's where the phone was that all of us used. Which was also the phone that the governor would use to call in and stop an execution.

The whole place was run by gangs, you know, there was ongoing warfare between the different factions. And the only gang open to white guys was the Northsiders—which is basically made up of the Aryan Nation and the Skinheads. So I had no gang protection. So I kept to myself a lot. Killed a lot of time on my own.

One way I killed time, was I found a sewing needle stuck in a concrete wall. Somebody had smuggled it in. So I taught myself embroidery.

You'd take extra clothing—the blue jeans made real good blue thread. And I was lucky—I had kept my old yellow jumpsuit that they gave me to wear when I first went in. So that gave me yellow. You take your sheet apart, that gives you white. So I had three colors of thread, just from unraveling cloth. I made myself a tote bag I'd take to chow hall, and I

embroidered flowers on it. I put bell-bottoms on a couple of my prison blues, made a Calvin and Hobbes patch I put on my hat. They confiscated that one.

*Lights down on GARY, up on ROBERT.*

ROBERT. The electric chair was downstairs and I was upstairs, and every Wednesday morning they cranked that electric chair up and you could hear it buzz.

And when they served breakfast, you gotta have sharp ears to hear that front door open, 'cause if you oversleep, the roaches and the rats come and eat your breakfast, and that's the God's honest truth.

And the guards—I think nine times out of ten, the average person that became a guard, the only way I can see it, when he grew up he was a little runt and then the bigger guy would mess with him and all of that. And then they grow up and they wanna do that too.

When I was in there, one day, this officer was harassing my neighbor and I was a witness. And the other inmate, he wanted to write the officer up, he asked me—

~~Lights up on BLACK INMATE.~~

~~BLACK INMATE. Hey, Robert, would you sign this statement?~~

ROBERT. I said, I told him, yeah.

But a couple of days later, the officer came back to work, and something just told me to pay attention to him.

~~Light up on WHITE GUARD.~~

ROBERT: And sure enough, this officer, he read that statement, he gonna get back at me. He gonna spit off in my tea. And I seen him spit off in my tea. And so I said [*looking at GUARD*], "Now why would you do that?"

WHITE GUARD: Do what? I didn't do that.

ROBERT: Hold on, I'm gonna prove it to you.

[*to audience*] And I went and got me a piece of toilet paper [*miming*], twisted it up, and put it directly on top of that tea. And I went round it. And I said [*to GUARD*], "Now what is that? You can have my tea. You can take that shit back, MOTHERFUCKER."

~~Lights down on GUARD, lights shift on ROBERT.~~

~~ROBERT [*with increasing intensity*]: Robert E. Hayes, number nine five one nine eight one seven, May 21, 1996.~~

~~Judge Kaplan,~~

~~I am writing to you in regards to some matters which I am having in this jail. The superintendent decline to answer any of my grievances, so I am makin' you aware of this before I get charged this time for something I DID do. The problem is this Officer Feliciano, who has constantly been provoking me. He come into my cell and toss my legal papers around, just tryin' to provoke me to fight him.~~

~~And today, he got classification to relocate me to the dayroom of a special wing for drug offenders. And by law, they can't supposed to have anyone sleeping in the dayroom, no matter what wing it's in.~~

~~With my luck, some other inmate, some snitch, will get one of my legal briefs while I am sleeping, call the state, say,~~

~~"Robert Hayes confessed to me, so he can get himself a deal, and say, 'if you let me out, I'll testify against him.'" And your Judge Kaplan, will believe that fuck shit.~~

~~So Judge, I am askin' you to grant me an order stating that me and the stated officer be kept away from one another, because I am not goin' to take any more of his bull shit.~~

~~[*small beat*] But thank you for your time. I'm sure I'll see you on another charge if you refuse to keep Feliciano away from me.~~

~~Robert Hayes.~~

~~Lights up on GEORGIA.~~

~~GEORGIA: And, okay, some snitch did get ahold of one of his legal briefs. Just like Robert said.~~

~~Lights down on ROBERT and GEORGIA, up on KERRY.~~

KERRY: So, uh, they accused me of bein' a homosexual, and that got into the media that got to death row even before I got there, so in prison, uh, uh—I was uh, uh . . . I had three guys pull a train on me . . . and they raped me, and sodomized me, and they carved "good p-u-s-s-y" on my behind. And it's there all over my body, it's cut so deep I can't—plastic surgery won't remove it, it's not a tattoo, and I attempted suicide a couple times with this whole little war I was fighting. On the one side, the criminal justice system, and then on the western front, I'm fighting with fear of my life with these inmates every day.

~~Lights up on DELBERT.~~

DELBERT Needless to say, Job is one of my favorite biblical figures

*Lights down on KERRY*

DELBERT. I don't know if I have the patience of Job—but I hope I have his faith. Even if you got a teeny-weeny bit, it's big. The shit is hard to come by, you know what I'm sayin'?

But faith or not, I realized a long time ago, if I internalized all the anger, and all the pain, and all the hurt, I'd be dead already—they wouldn't even have to execute me

*Lights down on DELBERT, up on DAVID.*

DAVID: When I was inside, one time, I felt this feelin' come over me where I felt the longin' of God for His people, I felt His love for His people, His desire for His people not to be cast aside. You know, I felt all this, and here I was on death row. It was so heavy. God, it was a burden on me.

And I was feelin' all this, and we went outside for recreation, and in the yard out there, you have a little basketball court, shuffleboard court, and there's a curtain up with the electric chair showin'. You look right up there, you can see the chair. You know, even if you playin', they gotta remind you that you still gonna die, 'cause here's the chair.

~~*Sound of thunderclap and rain.*~~

DAVID But then it starts stormin', man.

I looked up, raise my hand, and I said, "In the name of Jesus, I command this rain to stop."

~~*Sound of rain swooshing, then stopping.*~~

This guy says, "Man, you do it one more time, I'm gonna become a believer!" So it started again—

~~*Sound of thunder and rain.*~~

So I said it again. "In the name of Jesus, I command this rain to stop."

~~*Sound of rain swooshing, then stopping.*~~

It stopped. He said, "Man, you do it *one more time*—"  
So it started back. Same thing.

~~*Sound of thunder and rain.*~~

"In the name of Jesus, I command this rain to stop."

~~*Sound of rain swooshing, then stopping.*~~

But this time, he didn't say nothin'. He just looked at me like "Hmm," you know.

But it didn't rain anymore, until we finished playin', and we had to go back inside. And when the last man stepped through the door, the whole world just burst open.

~~*Sound of thunder and rain.*~~

It rained for the rest of the night.

*Lights down on DAVID, up on SUNNY. Rain fades slowly over the beginning of SUNNY's speech.*

SUNNY: I have fifteen years' worth of letters between me and Jesse. I saved not only the letters but the envelopes, because anything that he touched, or that he wrote on, or that he licked with his tongue, I was keeping. I didn't even read his letters when I first got them; I would carry 'em around with me for a while. Just to hold it. I'd see if he put the stamp on right side up or upside down. That was part of his message, too.

And then I'd open it and I wouldn't read it for content, I would just look at it to see. Did he look like he was happy when he wrote it, or sad? Did the writing slant upward or downward? Oh, it's big round open letters, he must have been having a good day. Oh, it's very tight writing, I can see he must have been having some problems. I would just savor the whole thing, and then I'd read it.

We carried on a fairly full life in our letters, actually, including our sex life. Oh yeah [laughter] You know, you have to send your letters out unsealed so that they can read them to see that there's no escape plans or whatever. So we got ourselves little Japanese dictionaries, and we used the Japanese language for our lovemaking, because we wanted to have some privacy.

*Lights up on JESSE.*

JESSE Sept 30, 1976

My Dearest Sunny,

I love you. It's about eleven p.m. now. I'm sitting here on my bunk. The TV is on with the sound off and on the channel that is just fuzzy so that I can use it for light. I'm reading *King Lear* and *Hamlet*, if you can believe that. I've been studying too much law lately and need to give my head

something relaxing, too. I received your beautiful letter and . . . two pictures of the kids. We're so lucky. I love you so much. You're my woman, as close as my breath. You're the strongest female I've ever known. Hand and glove, you know?

Never be lonesome, we're only separated by miles. This won't last, either, believe that. I sure would like to speak to you alone, let's say for a few hours.

*Hito banju kimuho ikasetai*

*Kimito hitotsumi naritai*

My place or yours. And don't worry, I'm on the case, lover.

I love you, Mama.

Jesse

*Lights down on JESSE.*

SUNNY: And so we had this life, you know; this little world together. I existed on those letters.

*Lights down on SUNNY, up on KERRY.*

KERRY: I was holding on for my brother. I can't tell you how close we were, he wasn't just a big brother, I *worshiped* him; he was my *role model*, he was everything I wasn't—he didn't smoke pot, he made straight As in school—and I was the black sheep of the family. My brother was always trying to rescue me, very strict on me—

*Lights up on DOYLE.*

DOYLE: No, Kerry, I'm gonna lose you, I'm gonna lose you, you're gonna get hurt.

KERRY: —and then there I was, sitting on death row.

He was taking up for me my whole life. I was just always a real soft sensitive person, you know, and I guess I had so many girlfriends 'cause I was so sensitive, I don't mean girlfriends like girls *sexually*, I mean friends that are girls

And so my brother—the last time I touched him was at the Smith County jail—he reached in and held my hand and was crying and said—

DOYLE: It's not over, Kerry, 'cause you're not gonna die, you're gonna get out

KERRY I was the baby of the family and my brother would come visit me and I would have these black eyes and stuff, you know, and he said—

DOYLE. I want you to tell me who did this to you, I'm going to talk to the warden

KERRY [to DOYLE] You don't understand, you'll get me killed, that's called snitching, that's the worst thing you can do

[to audience] So I forced my brother—when he thought he could help me, I took that away from him, too, saying, "You can't help me; I'm on my own now" And so, uh he started drinking.

The guy had it all, man, he was a senior supervisor at this huge corporation company, and he fell into a bottle, lost his wife, lost his kids He'd sit around in a dark room and get drunk and talk about his little brother, why isn't he coming home He put himself right on death row with me

And he's workin' as an assistant manager at a McDonald's in downtown Jacksonville, and there's this guy named Jeff

works there Jeff said that my brother liked him because my brother told him—

~~Lights up on JEFF.~~

~~JEFF and KERRY:~~ You're a lot like my little brother Kerry

KERRY And that's how they got to be friends.

So anyway, one night after work they go to this club in Tyler, Texas, and they're shooting pool. You know how you get when you're drinking beer and you're hot with the stick

And right now, it's closing and my brother's running the table on this one last guy—and he says to Jeff—

~~DOYLE:~~ You go, I'll be out there in a minute.

KERRY. And Jeff's walking out of the club, and there were these two black guys sitting on the table, and one of them's wearing sunglasses, and Jeff reaches up—he's just playing—takes the glasses, and puts them on—

~~JEFF mimics Stevie Wonder.~~

KERRY: —and mimics Stevie Wonder And the guy says—

~~Lights up on BLACK GUY 2.~~

~~BLACK GUY 2:~~ Say, what's up on you, man?

KERRY And this guy jumps off the table and gets real aggressive, and he's like—

~~BLACK GUY 2:~~ I'm gonna bring a world of hurt to him.

KERRY. And so about this time, my brother walks up and says—

~~DOYLE:~~ Hey, hey, man—

KERRY. My brother's really laid-back, you know. He wasn't a violent dude—I mean, he was a real laid-back, compassionate person. But Jeff just says—

~~JEFF:~~ Man, fuck these people

KERRY. And walks out. So my brother follows him outside.

*Beat. Lights shift.*

KERRY. It's December 27, 1997. It's really cold that night, and my brother and Jeff are both trying to get in the car but the locks are frozen, and this pickup truck pulls up behind my brother, and Jeff says—

~~JEFF:~~ Hey—watch out!

KERRY. My brother turns around, and this guy, he got out of the truck with his hand behind his back and he says—

~~BLACK GUY 2:~~ Whatcha gonna do for me, white boy, you gonna call me nigger? Whatcha gonna do for me?

KERRY. There was all kinds of people standing around, and my brother told him—

~~DOYLE:~~ Hey, look, man, we've all been drinking tonight—this is nothin' to have no misunderstanding about. Tomorrow morning you're gonna wake up and laugh about this

KERRY. And he says—

~~BLACK GUY 2:~~ Fuck you, man.

KERRY. And he brings from around his back a big ol' forty-four Magnum and he shoots him

~~Sound of a loud, long gunshot.~~

KERRY. And uh, uh, my brother—so weird, man—he rose up and stood up, and Jeff walked over to him and he couldn't even tell he was shot, his eyes were fixated looking straight ahead. And Jeff said—

~~JEFF:~~ Man, you okay? Man, you okay?

KERRY. And blood started pouring out of my brother's nose and he fell and he died on that parking lot.

~~Lights down on DOYLE and JEFF.~~

KERRY. And uh with me being on death row, the DA was reluctant to take it to trial—she said the defense would claim that my brother had bragged that he had a brother on death row and he was bad.

And so they got my mom and dad to agree to a plea bar-

gain, and the guy who killed my brother got ten years. And he got out in three.

My mother would look me in the eye and tell me that I'm responsible for my brother's murder. That if it weren't for me going to death row, he'd still be here. She would tell me that I know it's going to sound corny there, but—and I mean it—every day that goes by I wished I could tell him how much I love him. So while you've got it, man, never take it for granted, 'cause you never know

*Lights down on KERRY, up on SUNNY*

SUNNY: First I had to decide, This is bullshit. I am not going to let them do this to me. 'Cause if you sit there, rubbing two sticks together and crying on your sticks, they're never gonna make a spark. But, you know, if you stop feeling sorry for yourself, just because you're determined not to believe in hopelessness, then a spark happens, and then you just keep fanning that little spark until you got a flame.

And I realized that it was like a big trick. That I wasn't just a little lump of flesh that they could put in a cage. And I decided that I would have faith, that there was some power out there greater than them, to which I could make my appeal.

Now, you people that don't believe, you could say I was like Dumbo and I put this feather in my nose and I flew because I could fly anyway.

Or you could say that there really is something out there, and if we have faith in it and we appeal to it, it will answer us. And maybe we're both right. I don't know.

*Lights down on SUNNY, up on ROBERT.*

ROBERT: Well, see, before I went to prison, I had a dream about prison—and I seen death row, I seen the inside, and I seen myself get out. And 'cause a that dream, I always said, I'm gonna get a new trial. And sure enough, one day, ~~I get awakened by all this commotion. All the inmates, they get up in the vents, hollerin'—~~

~~Lights up on MEN~~

~~ALL MEN [at lib]: Man, you got a new trial! Damn, Robert, you gonna go free! You on the radio! Turn on the radio! [etc.]~~

~~CELLMATE: Put the radio on!~~

ROBERT: ~~Well, I put the radio on—~~  
And later that day, my lawyer came, and she said to me—

~~Lights down on INMATES, up on FEMALE LAWYER~~

FEMALE LAWYER: Now, you know, Robert, if you lose, you can go back to death row.

ROBERT: And I said [to lawyer], "Well, now, accordin' to that dream, I'm gonna go free."  
And she said—

FEMALE LAWYER [to ROBERT]: You gonna put all your trust in a dream?

ROBERT: And I said, "Yep." [small beat]

*Lights up on PROSECUTOR, GEORGIA, and EX-BOYFRIEND.*

ROBERT. My lawyer had found a record that said that in the girl's hand when she died was some white-people hair, red hair, sixteen inches long ~~So they said—~~

~~ROBERT'S PROSECUTOR. When you were strangling this girl, she reached up and pulled her own hair.~~

~~ROBERT [to PROSECUTOR]. Hold on.  
[to audience] Now when you come up behind me and you strangle me, are you gonna pull your own hair? Or are you gonna pull the hair of whoever back there behind you?~~

~~GEORGIA. Okay?!~~

~~ROBERT [to PROSECUTOR]. You can have a seat.~~

~~ROBERT'S PROSECUTOR sits down.~~

ROBERT [to audience]. And we all knew this white guy, her ex-boyfriend. He had been asking the girl for a date, telling her—

~~EX-BOYFRIEND. Why you keep hanging out with all them blacks?~~

ROBERT. And he asked her that *same night*—

~~EX-BOYFRIEND. We gonna go out?~~

ROBERT. And she said, "We ain't."  
And so my lawyer, she found out the cops had that hair; she found the guy. He got up and testified at my appeal.  
So my lawyer ask him—

FEMALE LAWYER. Back in 1990, what color was your hair, and how long was it?

ROBERT. And by then he had short hair, salt-and-pepper, you know, and he said—

EX-BOYFRIEND [on the stand]. My hair was the same color and length back then as it is now.

ROBERT. And my lawyer said—

FEMALE LAWYER. Are you sure?

EX-BOYFRIEND. Of course I'm sure.

ROBERT. So my lawyer pulls out this envelope. And she said—

FEMALE LAWYER. Again in 1990, do you remember having your picture taken near the racetrack?

EX-BOYFRIEND. Uh, yeah.

ROBERT. And then she pulled that big ol' photograph picture out and showed it to him. And there he was, his hair red and brown and sixteen inches long on the picture.

ROBERT looks to GEORGIA.

ROBERT and GEORGIA. Okay?!

Lights down on ROBERT, GEORGIA, EX-BOYFRIEND, PROSECUTOR, and FEMALE LAWYER, up on KERRY.

KERRY: So then after I've been on death row for twenty-two years, they find this DNA evidence, you know, and the prosecution says that this will be the final nail in Kerry Max Cook's coffin: "We'll show the world once and for all that he committed that murder." And then the results come in and it did just the opposite; it finally took the nail out of my coffin, told the world the truth—that that Professor Whitfield had murdered that girl. And he's still out. They never even went after him. He's been walking around a free man, laughing at the system for twenty-two years.

Twenty-two years

*Lights down on KERRY, up on GARY*

GARY: About halfway through my time on death row, a lawyer named Larry Marshall took on my case. He's at Northwestern; he works with a bunch of law students on wrongful convictions. My twin sister found out about him and went down there literally through a blinding snowstorm to see if he would take me on. And he said yes.

Man, that was like the cavalry coming.

Once he started working on it, Larry found out about this motorcycle gang called the Outlaws. Guys gained entrance into the gang by performing terrorist acts: They killed a bunch of people, they bombed the Hell's Angels—they just did a lot of stuff. And the federal government, the ATF, was running wiretaps on them. Well, in 1995, the ATF got a videotaped confession from an Outlaw guy saying he killed my parents. But I wasn't released until 1996. And that whole year in between, they were fighting my appeal. They fought it all the way to the Illinois Supreme Court.

The two guys who killed my parents were just found guilty last year.

But I've been adamant that those guys not get the death penalty. Some people think that's stupid, but why would I want them to die? It's not gonna bring my parents back. No good's gonna come from it.

*Lights down on GARY; up on SUNNY and RHODES*

SUNNY [to audience]: In 1979, Walter Rhodes wrote the following letter to the judge.

RHODES. I, Walter Norman Rhodes, hereby depose and say that I am under no duress nor coercion to execute this affidavit. This statement is made freely and voluntarily, and to purge myself before my Creator.

Briefly. On February 20, 1976, at approximately 7:15 a.m., I did, in fact, shoot to death two law-enforcement officers with a nine-millimeter Browning pistol.

I state emphatically and unequivocally that my previous testimony against Jesse Tafero and Sonia Jacobs was *false* and part of the statements I was instructed to make by the assistant state attorney, who did coerce me into lying.

I took a polygraph examination relative to this case, but owing to the fact that I am a student of Yoga and karate, and have been for the last ten years, I passed it. And can pass any such test, in my opinion.

The foregoing statements are true and correct to the best of my knowledge and belief. I so swear.

Walter Norman Rhodes, Jr., 9 November 1979

*Lights down on RHODES*

SUNNY: Keep in mind that I wasn't released until 1992.

So I'll just give you a moment to reflect: From 1976 to 1992, just remove that entire chunk from your life, and that's what happened [long pause, the length of a count of six]

But after all that, one day, the guard came into my cell and told me I was getting out. I thought he was trying to trick me.

*Sound of cell door opening; SUNNY takes it in.*

SUNNY: And it was just so *joyous*. I mean, I know a lot of people are angry, and I was angry some, but I didn't want to waste my time being mad.

At first, I did everything that Jesse and I said we were going to do together. I went to New York City, I went to the bookstore we said we were going to go to. I bought the book we said we were going to buy to make our Japanese gardens. I was doing it all for both of us.

*Lights down on SUNNY, up on DELBERT.*

DELBERT: When I first got out, I was numb. I didn't sleep for the first three days. I couldn't. And on death row, I had slept like a baby every night.

My first day home, they threw a party at my brother's house. My brother. He gave me his bed for the night—you know, with a red velvet coverlet on it and everything. And one of the sisters from the Defense Committee, she spent the night with me—which was nice, you know.

But I just couldn't get the fuck to sleep, man, and I guess around the third night, I began hallucinating, and one of my friends said, "Let me call my pastor and ask him to pray for you." And I talked to the pastor, and he said some kind of

prayer and I laid down and went straight to sleep. I haven't had any problems sleeping since then.

After that, the main adjustment was just learning to feel again. You know, when you're in prison, you can't allow yourself to feel too much. So when you get out, you've gotta practice. I had to practice a bunch to be human again. To remind me.

*Lights down on DELBERT, up on DAVID.*

DAVID: Maybe I'm still in there, in a way. 'Cause after I was out, I would go to work, I would come home, I would shut the door, and I would lock it. Just like in prison. Go to work, go to the store, come home, lock the door, *click*. Then one day I saw. "What're you doing lockin' the door?" I say, "Don't you know you're free now? You're not in lockup anymore, man—you're free!"

Prison took away that—spark for life, okay, 'cause in my old pictures from high school, I can see in my face—I'm smilin', you know. And now that's somethin' people round here don't see me do too much, smile.

~~Sound of rain. DAVID looks up, acknowledges the rain halfheartedly.~~

~~in the name of J—~~

~~Rain does not stop. Another half try.~~

~~in the name of Jesus—~~

~~Rain does not stop. DAVID gives up trying. Rain continues softly during the following and slowly fades.~~

Prison really did somethin' to me

And now, I do a lot of things—like I may drink okay, and I smoke some marijuana—to cocaine, to crack cocaine. A perfect day, to me, would be just to get plastered, you know, to forget. 'Cause now I'm tryin' to find out who I am, and if I smoke a joint of reefer, it takes me to that point where I can sit down and write me some poetry or whatever, just like I used to do.

But what are you gonna do? I mean, if they're in power and you have no power, then you're through. Bein' little is like bein' up next to a large oak tree and you just a little small pine. *[beat]*

That's why, like I said, I really gotta get back into a spirituality thing and focus on findin' that light within . . . 'cause that's all I really got, you know

*Lights down on DAVID, up on KERRY and SANDRA*

SANDRA. Actually, I am not a bleeding-heart liberal at all, as a matter of fact. I had a family member murdered and I was always a believer in the death penalty—

KERRY. She's a scientist—

SANDRA. But I was on the board of directors at the Dallas Peace Center and a guy from Amnesty approached me one day and told me he wanted me to help Kerry get integrated into society

So we were supposed to meet at this conference, and this boy walks in. I mean, he had on some jeans and any piece of clothing that had a zipper—you know, from the seventies—it had to have a zipper or he didn't want it. He had grown his

hair out and he dyed it—because, you know, he's really nineteen at heart . . . He couldn't look at anyone; he looked down, his leg was shaking the whole time.

KERRY. Especially with a female, man. I was supertraumatized about that. Very shy

SANDRA. He got up and used the bathroom probably about twenty times because he was so nervous—

KERRY. Aw, man, don't tell 'em that—

SANDRA. But then I thought—and I'm ashamed to have had this thought—What did he do to get himself in that situation? That's how I looked at it . . . 'cause you know, I was very conservative . . . *[beat]* and also very stupid. But he gave me the evidence, the hard-core evidence, and it dawned on me, Oh my God, how could this have happened? And he would get so close to you, and then look down and I thought, My God, what has been done to this man?

KERRY. The state of Texas executed me over a thousand times, man, and it just keeps on doin' it. I get nightmares—sometimes I forget I'm really here. And every day when I get in the shower, I'm reminded of it, 'cause I cannot avoid the scars all over my body. This is the only woman I've been with since I've been free, 'cause of that, and I married her. Think I'm gonna keep her.

But I'll be honest with you. The price of being here, alive, in this room, is really extraordinary—because when I'm alone, man, especially at night *[beat]* Talk about a mental trip, huh?

Lights down on KERRY and SANDRA; lights up on ROBERT and GEORGIA.

ROBERT: I been out now, three and a half years goin' on four. And we got married, what?

GEORGIA [*proud*]. Two years, 'bout two years—

ROBERT: And she be wanting me to come home, you know at night, and I don't want to come home, I wanna stay out, you know, 'cause if I come home [*joking*], it makes me feel like I still locked up.

GEORGIA responds.

ROBERT: And you know, there's a lotta times when she go to the store, and she had to knock on the door to let me know she coming in.

GEORGIA: Yeah, he jumps! When I first moved in, I just be walking in, walking out, and he just jump up, 'cause he's just in that mode! I'm like, Okay, he has to take a minute to calm down 'cause he's just used to that. You know, stuff like that plays with your mind.

ROBERT: Yeah, I was in there seven and a half years and it ain't ever gonna go away, far as I'm concerned. Lost my relaxation. Lotta other things, too. You know, you can't really put your thoughts on what you could have lost, or what you *have* lost. I said I could have been a millionaire, or I could have been the police chief. I could have been one of the famous black horse trainers—

GEORGIA. And they won't even give him his license back.

ROBERT: The Trotting Association, they wouldn't even give me my racing license back.

GEORGIA: Can you believe that?

ROBERT: I went to the county; I passed my test with flying colors. They asked me have I ever been convicted of a crime. I put down on the application no, because the Supreme Court, they overturned it. Well, they wrote me back and told me I lied.

GEORGIA: Tell 'em what you told your cousin.

ROBERT: So I told my cousin, I said, "Well, watch. I can go to a gun shop around here. I'm gonna see if they're gonna deny me. I went and got the gun. But the Racing Commission wouldn't give me my license back. I can legally get a gun, but I can't get a license to drive a horse.

GEORGIA: He can't do something he *likes* to do.

ROBERT: Can't do something I like to do.

And you know, all I want is, I would like to have me this woman here, a nice piece of land in the country, a nice barn, tractor and a couple of horses. I don't ask for much. But they sayin' I can't [*small beat*] Because of their mistake.

Lights down on ROBERT and GEORGIA, up on GARY and SUE.

GARY: What's the matter?

SUE [to GARY]. I had an incident at the market today, and, and I don't know why it upset me so much, but it really upset me. Some—well—

Well, it was awful. It was—it was about you.

GARY. What, at the market? Somebody didn't like the produce?

SUE. No . . . [to audience] I mean, this has been over three years now, and this guy was like, you know— [to GARY] It started out he just wanted to buy beets. Said—

~~Lights up on FARMER~~

~~FARMER~~ I want a bushel of beets

SUE. And I told him— [to FARMER] "Well, all of our produce is certified organic."

And he says—

~~FARMER~~ Oh, you grew all of this just in water?

SUE. I'm like— ~~[to FARMER]~~ "No, that's hydroponic."  
And he asks me—

~~FARMER~~ Where do you farm?

SUE. And I told him. So he said—

~~FARMER~~ Oh, so you farm with that guy that was in all that trouble.

SUE. Oh, you mean Gary? Yeah, he's my husband.

~~FARMER~~ Yeah, that was sort of a fishy case, wasn't it?

SUE. Well, you know, two bikers just confessed and were convicted.

~~FARMER~~ Well, Gauger confessed, too. You know, the paper said.

~~Lights down on FARMER~~

GARY [to SUE]. There's gonna be idiots. I mean, that guy, you know, he's living a lie, just like the newspapers or the prosecutors or whatever. Everyone perceives things in their own way, so which one is the reality, you know? Is the reality your perception? Or is it a composite of everybody's perception, or what?

[to audience] I mean, what is reality? We're all light beams, you know—

SUE: Oh, Gary, don't go there—

GARY: We're all light beams. People wonder, How could God create miracles? Well, because God moves at the speed of light, and time stops, you see. Once you get to the speed of light, you got all the time in the world to change things and create miracles.

SUE [bemused]. Oh, so you're an expert now?

GARY: It's all there on a molecular level, you know. Once somebody told me God is DNA, and you look how tenacious that stuff is you start to wonder.

*Lights down on GARY and SUE, up on SUNNY*

SUNNY: You see, I got another chance, because I looked for it. I looked to turn a pile of manure into flowers. I didn't even get lemons; I got manure [*laughs*].

I mean, I'm not glad for what happened to me—when I was in there, my parents died, my children grew up without a family . . . and my husband was executed—very, very brutally. Jesse's execution was known worldwide. The chair malfunctioned and made a mess of it. And . . . they had to pull the switch three times.

And he didn't die. It took *thirteen and a half* minutes for Jesse to die. Three jolts of electricity that lasted fifty-five seconds each. Almost a minute. *Each*. Until finally flames shot out from his head, and smoke came from his ears, and the people that came to see the execution, on behalf of the press, are still writing about it. *Ten years afterwards*.

Why do we do that?

*Lights down on SUNNY, up on DELBERT.*

DELBERT: Mahatma Gandhi said that once he discovered who God was, all fears left him regarding the rest of the world, you know, and it's *true*, you know. If you're not harboring any kind of malice, any kind of stuff like that in your heart, there really ain't too much to be afraid of.

And I understand why people are afraid. I mean, I do think the world itself, if you think about it, can be quite frightening . . . I mean just like getting up every day, you know, I understand.

But you can't give in to that. 'Cause as they say in the cowboy pictures, nobody's gonna live forever, you know what I'm sayin'? And if you have to go, then you might as well go being about the highest thing that you can be about. And that

means learning not to fear other people, man, on a *human* level, white or black or *whatever*.

I mean, it's a real struggle not to lump all white people—you know, if you're locked up in a room and a guy comes in wearin' a gray suit and he hits you every time he walks into the room, afterwards you gonna have a thing about people with gray suits, I don't give a fuck who they are.

But I try not to look at the world monolithically like that, and that's what has helped me to survive. I mean, I think the American criminal justice system is totally fucked up—I think some things about our *country* are fucked up—but I also think it's a great country, you know, I really do.

But I mean, the fact that you can have people who probably knew that a lotta folks were innocent—but *they* were not gonna be the ones to lose their jobs, jeopardize their kids' college education, blow their new SUV or whatever for some abstraction like justice [*beat*] That's fucked up.

And I know America gets tired of all of these people talking about what they don't have and what's wrong with the country. Folks say, "Well what's right with the country?" Well, what the fuck? To make things *better*, we ain't interested in what's *right* with it; we're interested in what's *wrong* with it. You don't say, "What's *right* with my car?" What's *wrong* with it is what we better deal with.

*Lights up on SUNNY.*

SUNNY: I want to be a living memorial. When I die, I want 'em to plant tomatoes on me, or apple trees or something, so that I can still be part of things. And while I'm still alive, I'm planting my seeds everywhere I go, so that they'll say, "I once heard this woman, and she didn't let them stop her, and she

didn't get crushed, and if that little woman person can do it, then I can do it." And *that's* my revenge. That's my legacy, and my memorial.

You know, I've never been to Jesse's grave, and for a long time it was a bone of contention between his mother and me. But I explained to her, I said, "That grave is not where Jesse really is." I said, "That grave is your monument, and this is mine. My life is my monument."

DELBERT This  
is the place for thoughts that do not end in concreteness  
It is necessary to be curious,  
and dangerous to dwell here; to wonder why  
and how and when is dangerous—  
but *that's* how we get out of his hole.  
It is not easy to be a poet here  
Yet I sing  
We sing.

~~Sound of rain slowly fades in.~~

DELBERT [~~is DAVID, who does not see him. Lights glow on DAVID.~~]  
Sing

~~DAVID raises his hand to stop the rain. It does. He smiles to himself as  
DELBERT watches. Blackout.~~

## CHAPTER 10

### PLAY ANALYSIS

#### A. Themes

The themes running through The Exonerated are very strong and represent the heart of the play. The obvious main theme is the wrongful incarceration of prisoners, and the possibility of wrongful execution. The play is very explicit in its dealings with the subject, as the exonerated people speak very candidly about their experiences, and in some cases, their personal views. The reasons for wrongful incarceration of these six people vary greatly, however the play shows how racism and prosecutorial and police misconduct still play a large role in this problem.

Following the idea of wrongful imprisonment, the play suggests that the criminal justice system is flawed. The fact that these six innocent people were put on death row, and came as close as eleven days from being executed, shows that the judicial system in this country has inherent

problems. In the case of Sunny, her husband was put to death while he had a very strong case for innocence. His execution, despite the same proof of innocence that exonerated Sunny, shows that mistakes and flaws in the system can be fatal.

Another large theme of the play is its opposition of capital punishment in all forms. While the play deals with wrongful incarceration specifically, there are strong anti-death penalty themes, specifically from the characters in their speeches. Gary speaks most candidly about it, saying he had "been adamant that [the people who killed his parents] not get the death penalty... It's not gonna bring my parents back. No good's gonna come from it" (Blank 64). Sunny also speaks out against executing people, asking the audience, "Why do we do that?" when talking about her husband's brutal execution (74).

Whether the themes are overt or understated, the intention of the play is clear; to change people's views. The play was specifically designed to allow audiences of all backgrounds to be a part of what real-life people had to experience in their life. By showing the audience these terrible ordeals suffered by these "normal" people, it emphasizes the fact that this can happen to anyone. As

Kerry says, "I'm no different than you... if it happened to me, man, it can happen to anyone" (48).

### **B. Form and Style**

While the play falls into the style of Documentary Theatre, it has a very unconventional form. What makes the play so unconventional is that it is filled with exposition. None of the action takes place in the present, but rather it is, at its most basic level, a group of people telling stories of their past to the audience. The playwrights did, however, attempt to infuse action into the play.

While conflict breeds action, the action in the play does not come from opposing forces meeting on the stage. There is actual conflict in the play however, and it comes in the form of memory scenes. The memory scenes constitute the only *real*, physical conflict in the play. Sunny's interrogation scene for instance, features two police officers badgering her during questioning. The officers create an imposing physical presence and become a tangible obstacle for Sunny to overcome (33). While these memory scenes are scattered throughout the play, they do not further the plot, but rather supplement it with physical

action. Therefore, while there is action that takes place onstage, the plot is advanced solely through the exonerated people's monologues.

The concept of a monologue driven play is not new, as it has been done in plays like A.R. Gurney's Love Letters. Even in the case of Love Letters however, the conflict was created by the two people onstage, and you could experience the conflict between the characters. In The Exonerated however, there is only one person onstage relating their story at a time, which makes it impossible to create tangible conflict. Rather the conflict comes in the memory of the storyteller, and is supplemented by the memory scenes.

### **C. Language and Imagery**

Since the action is furthered through the monologues of the characters, language and imagery become a very important part of the play. Since much of the action does not take place on the stage, the actors must paint the picture for the audience's imagination. Therefore the imagery in the play becomes the most important part of the show, apart from the message of the play.

The language in the play helps to enhance the images created by the characters, and also helps to distinguish the characters. Since the play was based on real people, and taken directly from transcripts of interviews with those people, each character has a distinct speech pattern and uses language in his/her own way. The text is written how the people behind the characters speak, in the vernacular of their respective regions, in order to highlight those differences. This helps to key the actors, and in turn the audience, into who these people are in real life.

Language is also used in order to emphasize certain aspects of the show. Nowhere is this more apparent than in the interview with Sheriff Carroll about David's case. During the interview Sheriff Carroll, who is white, refers to the African-American suspects as "niggers." At the end of the interview when asked about the accents of the suspects, whether they sounded local or not, Sheriff Carroll's response is "naw, they just sounded like regular niggers to me" (19). The use of the "N-word" by a white Sheriff in response to a straight-forward question where race was not implied, paints a strong picture of the racism involved in David's case. In addition to the specific

implications, the word "nigger," especially when used by a Caucasian, is a very powerful word that automatically evokes reactions from the audience.

The language is also very important in the poetry used in the show. Delbert's poems both begin and end the show, showing a progression from beginning to end. The poem that opens the show is as follows:

This is not the place for thought that does not end in concreteness;  
 it is not easy to be open or too curious.  
 It is dangerous to dwell too much on things:  
 to wonder who or why or when, to wonder how, is dangerous.  
 How do we, the people, get outta this hole, what's the way to fight,  
 might I do what Richard and Ralph and Langston'n them did?  
 It is not easy to be a poet here. Yet I sing.  
 I sing.

Delbert ends the play with a derivation of his first poem.

This is the place for thoughts that do not end in concreteness.  
 It is necessary to be curious,  
 and dangerous to dwell here; to wonder why  
 and how and when is dangerous--  
 but *that's* how we get out of this hole.  
 It is not easy to be a poet here.  
 Yet I sing.  
 We sing.

Comparing the two poems, it is obvious right off the bat that there is a progression from the beginning to the end. The change in the poem is not arbitrary. The message

changes to fit the changes that the characters, as well as the audience, have undergone. The first poem is filled with questions and a very cautious tone, while the second poem is much more decisive.

In the first poem, Delbert asks "How do we, the people, get outta this hole?" He seems unsure about where the answers lie. Also, he ends the first poem by saying "I sing," signifying that he is standing alone. In the second poem, he answers his own rhetorical questions from the beginning in a manner befitting his, and the other characters' development. Delbert speculates that the answer to "getting out of their hole" comes from the courage to stand against the difficult and dangerous situations. He then finishes the poem by including the rest of the exonerated people by saying "we sing," implying that the others have made the transformation as he has.

The transition of the poem reflects the transition of the exonerated people and their situations throughout the play. It also serves to show a glimmer of hope, as the play does end on a positive note; saying though it may be difficult, we persevere.

While the language in the play helps the audience to understand the characters and action, the imagery in the

play helps the audience understand the full situation. The imagery is necessary in order to carry the action of the play, and the stories must create pictures inside the audience members' heads. Without the images the play evokes, the audience is simply watching people tell stories on the stage.

A good example of imagery in the play is during Sunny's description of the events leading to her arrest. Without any physical action on the stage, she paints a portrait for the audience member, allowing them to take the ride with her. She describes the details of the shooting, and then describes the stealing of the patrol car and the ride afterward, allowing the audience to build a picture in their mind, and imagine all of the action that takes place in that short speech.

One of the strongest images in the play is one that recurs, and is spoken of by several different characters; the image of the electric chair. The electric chair symbolized executions for several years, and even though it is rarely used any more, it still conjures up a powerful emotional response. Several characters talk about the effect that the electric chair had on them, and describe their experiences with the chair.

While the description of Jesse's execution is probably the most powerful image in the show, one of the more understated electric chair images comes from David. Before he describes his rain-stopping experience, David talks about being out in the yard, and being able to look up and see the electric chair. "Even if you playin', they gotta remind you that you still gonna die, 'cause here's the chair" (52). This is a very powerful image David evokes because it puts in the audience's mind this looming, ominous figure, lording above the yard where the inmates play. Even while the inmates are playing basketball, this symbol of death, of their own death no less, is a constant reminder to them.

The language and imagery carry the show when the memory scenes do not. Because of the unconventional nature of the show, it is imperative that the images can carry the audience through the course of the play; otherwise they will not be interested in what the characters have to say. The play is very dependent upon the audience member being engaged in the stories being told. If they are not, the effect, and the message, will be completely lost.

## CHAPTER 11

### CHARACTER ANALYSIS

#### 1. DELBERT TIBBS

##### A. Character Bio

In addition to being an exonerated person himself, Delbert acts as a choral figure throughout the show. His poetry both begins and ends the show, and is also interspersed throughout the beginning of the play to break up the introductions by the other characters. Because of his status as the choral figure, he is the only character in the play who can see the other characters, and he acknowledges them throughout. While he tells his story of wrongful incarceration, and the effect it had on him, many of his contributions to the show are more philosophical in nature. He muses about the state of the legal system, racism, the country as a whole, and offers words of inspiration and hope; not only for the other characters, but for the audience as well. His function in the show differs from the other characters in those ways, but he

also tells his story of his arrest, trial, imprisonment, and eventual exoneration.

### **B. Case Bio**

Delbert was sentenced to die by the state of Florida for the murder of a 27-year-old man, and the rape of his 17-year-old female companion. In addition to his death sentence for the murder, he was sentenced to life in prison for the rape. The woman testified that she and her companion were hitchhiking when they were picked up by an African-American man who eventually shot her companion, raped her, and dumped her on the side of the road.

A few days later Delbert was hitchhiking about 220 miles away from where the crime had occurred, and was stopped and questioned by the police. They photographed him and let him go since he did not fit the description of the suspect. Later, the woman identified Delbert from the photograph the police took. Delbert was then arrested in Mississippi.

Despite the fact that he did not fit the original description and had a solid alibi, Tibbs was convicted in Florida for both the murder and the rape of the accuser. He was convicted, in large part, because of the witness's

testimony, as well as the testimony of a jailhouse snitch who claimed Delbert had confessed to him. Delbert was convicted by an all-white jury.

The jailhouse snitch eventually reversed his testimony, admitting that he had perjured himself in order to receive leniency in his own case. The Florida Supreme Court later overturned the verdict and remanded the case, though Delbert still faced a possible retrial. It was not until 1982 that all formal charges were dropped, with the prosecutor saying "the case was tainted from the beginning, and the investigators knew it" ([www.law.northwestern.edu/wrongfulconvictions](http://www.law.northwestern.edu/wrongfulconvictions)).

### **C. Character Storyline**

<u>Page #</u>	<u>Content</u>
8	This is the opening poem of the play where Delbert proclaims that "this is not the place for thoughts that do not end in concreteness," and that "it is not easy to be a poet here. Yet I sing." With this opening piece, Delbert sets the tone for the play, explaining the difficult nature of

their situation, but still maintaining a glimmer of hope that he still "sings."

10, 16

Delbert continues his poem, continuing to declare how difficult the situation is, proclaiming, "It's not easy."

22

Delbert finishes his poem and introduces himself to the audience. He explains his personal background and that he's "a child of the sixties and seventies," and how that continues to influence him. He tells about his personal quest to move about the country and the desire to "be free" that eventually landed him in this situation. He then details the basics of his case.

26

Another short piece of poetry that proclaims "if you dream in this world, it is dangerous." This poem leads into the portion of the play where the exonerated begin to lose their personal freedoms.

- 33 Delbert talks about the effects of being locked up.
- 37 Delbert describes the circumstances of his trial and subsequent conviction, as well as his personal development and "enlightenment" about race. He also talks about the differences in people and their varying views on society. He hypothesizes that the differences in people's views have to do with "one's preconceptions" and "tendencies."
- 45 Delbert tells of a dream study he participated in, where they monitored his brain waves. The fascinating thing for him, was that they placed the receptors in the exact same spot as prison officials do when they are going to execute an inmate.
- 52 Delbert says he hopes he has the faith of Job, and that a little faith can go a long way. He also warns that internalizing the

anger an inmate can feel will ultimately lead to destruction.

66           Once he gets out of prison, he finds he has trouble sleeping. He says he spoke to a pastor one night, and after the pastor said a prayer, he went straight to sleep and hasn't had a problem yet. He talks about the difficult adjustment saying, "I had to practice a bunch to be human again."

74           Delbert talks of finding a spiritual plateau and being able to release all the fear he felt about the world. He says all people need to learn not to fear other people, regardless of race. He then expresses his displeasure about the state of our nation, saying people who knew other folks were innocent, and would not risk what they had "for some abstraction like justice." He emphasizes that he believes America to be a great country, but says we need to evaluate

what is wrong with this country in order to make it better.

76 Delbert's final poem that closes the play. It is a variation of his earlier poem, and he corrects his previous statements, saying, "This is the place for thoughts that do not end in concreteness." He reemphasizes the fact that it is not easy to survive, "yet I sing. We sing." The play ends with Delbert telling David to sing. However, in our version of the show, Delbert's request for David to "sing" was instead directed to the audience in an attempt to have them "sing."

## **2. GARY GAUGER**

### **A. Character Bio**

Gary is a stereotypical Midwestern hippie. He is a huge Grateful Dead fan and runs an organic farm. Gary's story is particularly moving because of the victims of the murder, his parents. Gary stumbled upon his father's brutally murdered body, and then learned of his mother's murder shortly after. When taken to the police station, he

was kept in a room for several hours, and railroaded into a false "confession." The difficult circumstances of having his parents murdered were compounded for him by being wrongly convicted and placed on death row for their murder. Regardless of his circumstances, Gary seems to keep a good head on his shoulders. This is evidenced by his sense of humor that shines through when talking about the embroidery he took up while incarcerated. Also, at the end of the play after Sue shares her story about the guy at the market, rather than getting upset, Gary simply takes it in stride, saying "He's living a lie," and that "Everyone perceives things in their own way." Even through the difficulty of his ordeal, he still seems to maintain a positive outlook.

### **B. Case Bio**

Gary's parents, Morris and Ruth Gauger, were murdered at their home on April 8, 1993. Gary found his father's body the next day and, after calling police, the investigators found his mother's body a short time later. He was then arrested for their murders and taken to the station for questioning. He was interrogated all night until he made statements that police and prosecutors used

as a confession. Gary denied confessing, saying that he made the statements hypothetically, and only after the investigators had convinced him that he could have murdered his parents in an alcoholic blackout. They convinced Gary of this by telling him that he had failed a polygraph test, and that investigators had found bloody clothes linking him to the murder. In reality, nothing of the sort had been found, and the polygraph test was inconclusive.

The interrogation, however, was not recorded, and despite a lack of physical evidence, Gary was indicted and eventually convicted of murdering his parents based largely on his "confession." In addition to his alleged confession, the prosecution used the testimony of a jailhouse snitch, who claimed that Gary had confessed to him on several occasions.

The only other evidence the prosecution had was the testimony of scientists. A pathologist testified that the wounds of the victims were consistent with a person slicing their throats from behind, as Gary had speculated he might have done. The pathologist also testified that it was equally likely that the victims were bludgeoned to death before their throats were slashed. A forensic scientist then testified that hairs found near Gary's mother's body,

believed to be hers, had been broken in a manner consistent with a person grabbing the hair from behind as Gary had speculated in his "confession." However, she also testified that the hairs could have been broken simply by combing or brushing them.

Despite the lack of hard-core physical evidence, Gary was convicted and sentenced to death. Nine months later, after the Center on Wrongful Convictions (CWC) at Northwestern University had taken Gary's case, his sentence was reduced to life in prison. Gary was then granted a new trial in 1996 by a unanimous vote from an Illinois Appellate Court. The court ruled that Gary's "confession" should not have been admitted, and that the judge had erred in allowing it.

Without the confession, the prosecution had no choice but to drop the charges, though State attorney Gary Pack continued to imply publicly that Gary had committed the crime. He stated that the only reason Gary was free is because the state could not meet its burden of proof without the confession. Shortly thereafter, two members of a biker gang were indicted for the murder of Gary's parents, as well as a laundry list of other crimes. The ATF had been running wire taps on the gang, and had caught

one of the murderers on tape, saying he had killed the Gaugers. One of them pled guilty to the murder in 1998, while the other was convicted in 2000.

Finally, in December 2002, Gary was given a full pardon based on innocence by Illinois Governor George Ryan ([www.law.northwestern.edu/wrongfulconvictions](http://www.law.northwestern.edu/wrongfulconvictions)).

### **C. Character Storyline**

<u>Page #</u>	<u>Content</u>
8	Gary is the first to introduce his case. He goes over the background of the case, how he found the bodies, and describes everything up until the time of his arrest.
30	Gary talks about his time at the police station. He describes his sleep deprivation, his lie detector test, the railroading methods police used to interrogate him, as well as his "vision statement." One of the most powerful lines in the show comes in this section when Gary proclaims, after describing how he would

have hypothetically killed his mother, that  
"I never would have hurt her."

48 Gary talks about his time in prison, about  
being able to wander through the halls into  
the execution house, the gangs, and how he  
passed his time. He really gives insight  
into his personality when he discusses the  
items he sewed.

64 Gary talks about the CWC coming to his  
rescue, and how he was finally exonerated.  
He talks about the bikers that confessed to  
the crime, and how is he "adamant that those  
guys not get the death penalty."

71 Sue details an incident she had at the  
market that indicates that, despite the  
bikers' convictions, people still have  
doubts about Gary's innocence. While  
obviously disturbed by this, he takes it in  
stride saying "people perceive things in  
their own way." He then enlightens the

audience as to his belief that "we are all light beams," and that "God is DNA." He goes on to say that miracles are created by God because he moves at the speed of light.

### **3. ROBERT EARL HAYES**

#### **A. Character Bio**

Robert Hayes's story is a blend of racism mixed with bad circumstances. In the play, he does not go into much detail about the case, as his character's strong moments come from his time in prison and his being the victim of racism in the Deep South. His case hinged on eyewitness testimony that said he was with the victim earlier in the evening, as well as faulty DNA evidence that eventually exonerated him. In the show however, his most powerful moments come when he talks about the pervasive racism in the South, at the hands of the police no less, as well as his treatment in prison at the hands of the guards. It should be noted however, that since the writing of the play Hayes has confessed to raping and murdering a woman in 1987. He is currently serving 15-45 years for the crime. While I do not know the full details of the case, this

conviction should take nothing away from the fact that Hayes was exonerated of the crime the play details.

### **B. Case Bio**

Robert was sentenced to death for the rape and murder of a woman he worked with at a racetrack in Broward County, FL in 1990. His conviction was based on a witness who stated that they had seen Robert near the victim before the crime, and that she had rejected his request for a date. Also, the prosecution entered DNA evidence that linked him to the crime.

The DNA evidence however, was faulty and sloppily tested, and the defense claimed that there were also light colored hairs found in the victim's hand that could not have come from Robert because he is African-American. The faulty DNA evidence eventually won him a new trial in 1995.

When the DNA was re-tested, it exonerated Robert, but the prosecution refused to drop the charges. His new trial subsequently won him his freedom in 1997 ([www.law.northwestern.edu/wrongfulconvictions](http://www.law.northwestern.edu/wrongfulconvictions)).

**C. Character Storyline**

<u>Page #</u>	<u>Content</u>
10	Robert talks about working at the horse track, the inherent racism there, and details the basics of the crime. He and Georgia end the section talking about the guilt/innocence of O.J. Simpson.
24	This section differs a bit, in that it is a unit unto itself. The section deals with Robert's experiences with racism in Mississippi. He talks about a specific incident where a white cop thought he was harassing a white friend of his for no apparent reason. He and Georgia continue to talk about the racism, ending with Robert saying he believes it is getting better. Georgia finishes by saying that she does not believe it can ever be better as long as people pass it down to the younger generation.

49 Robert talks about his time in prison and how inhuman he felt. His breakfast would be left for the rats, and he details a specific incident where a prison guard spit in his tea. The reason for the guard's action stemmed from Robert signing a statement of abuse against another prisoner.

61 Robert details the dream he had that revealed he would be freed from prison when he received a new trial. He then goes on to relate the facts that led to his exoneration, showing the man who was suspected of the crime to be a liar.

70 Robert discusses the effects of being on death row for over seven years and the things he has lost, such as his relaxation. He goes on to say "you can't really put your thoughts on what you could have lost, or what you have lost." He goes on to talk about what the system has done to him, not allowing him to be able to get his racing

license back because his felony has not been expunged from his record. He talks about how he can go and buy a gun, but he can't get a license to drive a horse. "I can't do something I like to do" he explains. His last line of the show is very powerful, as he sums up all of the restrictions he has faced, and the fact that he will not be able to follow his dreams, "because of their mistake."

#### **4. KERRY MAX COOK**

##### **A. Character Bio**

The story of Kerry Max Cook's imprisonment and exoneration is perhaps the strongest in the show, and definitely is the most emotional. As far as audience response, this is most likely to be the case people remember. The cards were stacked against Kerry from the beginning in that he had gained a reputation for being a troublemaker in his hometown. The factors leading to his conviction, and the hardships he faced while in prison, can have a very powerful effect on an audience. Though still very much affected by his time in prison, Kerry maintains a

good attitude, a large part of that coming from his wife who loves him and takes care of him. Kerry is still very young at heart, as he was incarcerated at 19, and then spent 22 years on death row. His youthful nature is apparent throughout the show, specifically in his line when, describing his case, Kerry says he "wanted to be all that plus a bag of potato chips." However, his youthful exuberance is punctuated by moments of extreme pain. Kerry's story is both moving and horrifying, and depicts the darkest side of the criminal justice system.

It should be noted that Kerry was not officially exonerated. Instead, without knowing about the DNA evidence that absolved him of the crime, he agreed to a plea deal on a lesser murder charge that reduced his sentence to time served so that he could not face the death penalty again.

#### **B. Case Bio**

Kerry was convicted and sentenced to death twice for the murder and mutilation of a 21 year old woman in his hometown of Tyler, TX. In his first trial, witnesses testified that Kerry sometimes watched the woman through her window, watching her undress, and that he had recently

watched a movie that showed the mutilation of a cat. In addition to this, the prosecution used jailhouse snitch testimony in which an inmate claimed Kerry had confessed to him. A forensic psychologist, who defense prosecutors had dubbed "Dr. Death," also testified that Kerry had an anti-social personality and was almost certain to kill again. This evidence, in addition to the prosecutor's misconduct in labeling Kerry a "pervert" in the trial, helped to convict Kerry and sentence him to death.

An Appellate court affirmed Kerry's conviction, but in 1988, with Kerry eleven days from execution, the United States Supreme Court declared the state of Texas should review the case. This eventually landed Kerry a new trial, though he was once again convicted and sentenced to death in 1994.

In 1996, a Texas Appellate court overturned the verdict with the court saying "prosecutorial and police misconduct has tainted this entire matter from the outset" ([http://www.law.northwestern.edu/depts/clinic/wrongful/exonerations/TX\\_Cook.htm](http://www.law.northwestern.edu/depts/clinic/wrongful/exonerations/TX_Cook.htm)). By the time of this ruling all of the evidence against Kerry had been discredited, and new DNA evidence was emerging. The new DNA evidence exonerated Kerry, but he did not know that. Before his third trial

began, he agreed to plead "no contest" to a lesser murder charge in order to avoid another possible death sentence ([www.law.northwestern.edu/wrongfulconvictions](http://www.law.northwestern.edu/wrongfulconvictions)).

### **C. Character Storyline**

<u>Page #</u>	<u>Content</u>
12	Kerry talks about his pre-trial shenanigans, which included stealing a car, and how that helped to lead to his conviction in the murder trial. He then details the specifics of the case against him and how they used junk science in order to obtain a conviction. He then talks about the victim's roommate, and how she changed her testimony to finger him instead of the victim's ex-boyfriend Whitfield, whom she had originally claimed to see in the apartment. He finishes by letting the audience know that his defense attorney was the former DA, and alludes to the sorry state of the Texas public defense system.

41 Kerry talks about how the prosecution had a lead on Whitfield, as well as how the prosecution called him a homosexual in front of the jury. There is then a speech that was actually given by Kerry's prosecutor during the trial that is one of the most compelling parts of the play. The prosecutor slams his credibility and calls him, among other things, a "freak," a "pervert," and a "murderous homosexual." The prosecutor then calls for his execution.

47 Kerry says that he saw many of his friends executed while on death row. He also has one of the most important lines in the play at the end when he says "If it happened to me, man, it can happen to anyone."

51 Kerry very painfully describes the physical effects of his time in prison, describing his rape, as well as the scars with which he has to live each day. This paragraph is the most heart-wrenching portion of the play,

and it is obvious that it still pains Kerry very much to tell it.

55 Kerry describes his relationship with his brother, Doyle, whom he says he "worshipped." Kerry describes the effect Kerry's conviction had on Doyle, and his eventual murder. A very strong point in this, apart from the death of Kerry's beloved brother, is that when he describes the punishment for the killer, he says that "the guy who killed my brother got ten years. And he got out in three." He then goes on to talk about his mother blaming him, and his desire to see his brother again, ending his speech with "so while you've got it, man, never take it for granted."

64 Kerry describes the circumstances of his release, and the DNA evidence that proved his innocence. He also talks about the man whose DNA was found at the crime scene,

Whitfield, and how authorities never pursued him.

68 A great insight into Kerry's character comes in his wife Sandra's speech at the end of the play. She describes Kerry's demeanor, mood, and dress when he was first released. Her love for him is very much apparent in her speech, as is his love for her. Kerry finishes this section by proclaiming that "the state of Texas executed me over a thousand times, man, and it just keeps on doin' it." He describes the nightmares and scars that still haunt him, and the difficult time he has in dealing with his past.

## **5. DAVID KEATON**

### **A. Character Bio**

David Keaton was a very spiritual man who has lost his faith. David's character in the play mainly serves to explore the spiritual side of incarcerated people. While many inmates find religion while incarcerated, David's

story shows the other side of the coin. He was a very spiritual man, headed for a life in the ministry, when he was wrongly imprisoned. His time in prison eventually led to him losing his faith. In addition to the spirituality issues he now faces in his life, he also faces substance abuse issues. In the show David is very candid about his drug and alcohol use, as well as his loss of spirituality. Because of his internal struggles, the character of David is very relatable to the audience. I also believe his character is perhaps the most difficult for an actor to play because of his deep-seated emotional scars. He was a victim of the system, and has never recovered.

#### **B. Case Bio**

David Keaton was convicted and sentenced to death for the murder of a police officer during a robbery attempt in 1971. His conviction was based on eyewitness testimony, as well as a coerced false confession from David. David, and his alleged accomplices, were tried and convicted before the state had any evidence of a group called the "Jacksonville Three." The "Jacksonville Three" was the name coined for the group of men who had actually committed the crime. David and his alleged accomplices were forced

to pay for the crime however, because "somebody had to be convicted." Fingerprint examinations of the crime scene did not link David or his alleged accomplices to the scene, however did contain fingerprints of the Jacksonville Three. David was exonerated of the crime in 1973, but he was not released until 1979 when the real killers, the members of the Jacksonville Three, were convicted (Keaton v. State, 273 So.2d 385, 1973).

### **C. Character Storyline**

<u>Page #</u>	<u>Content</u>
17	David talks about his intention to go into the ministry, and describes the way he was picked up. The speech by Sheriff Carroll gives insight into the level of racism that went into the police department decision to pick him up and keep him. He also talks about the trials he faced while being questioned, and his preconceptions about the police, leading to his giving a false confession.

- 43 This section consists of David's prosecutor and defense attorney going back and forth about the particulars of David's case. The prosecutor outlines the difficulties David faced because of his confession, while the defense attorney outlines David's mistreatment at the hands of the police. Since it was a police officer who was killed, it becomes very obvious through this exchange that David would have a difficult time.
- 46 David speaks of his desire to regain his spirituality. He talks about his relationship to God before going to prison, and how he has struggled with trying to regain it since.
- 52 David talks about being in prison and his continued longing to regain his spirituality. He also talks about being able to see the chair from the yard saying, "Even if you playin', they gotta remind you

that you still gonna die.” He then goes on to describe an incident when he was feeling the spirit of God, and he put his hands up and stopped the rain from falling. This section can be incredibly powerful as we see the deep belief that David has, not only in his religion, but in his abilities.

67

David describes what life has been like since he was released. It has been a great struggle for him, as he says that “prison took away that spark for life.” He details how difficult it is for him to forget, and how drugs and alcohol help him to do just that. As he ends, he says, “That’s why, like I said, I really gotta get back into a spirituality thing and focus on findin’ that light within... ‘cause that’s all I really got, you know.” I believe this line really sums up his personality more than any other in the show.

## **6. SUNNY JACOBS**

### **A. Character Bio**

Sunny is the only female exoneree in the play and her case is very unique because of that. Also, no other character in the show had kids at the time of their arrest, and the fact that her husband was also incarcerated, and later executed, also makes it unique. Sunny's story is a very large part of the show, and because of her family and the circumstances of her case, her character is very relatable. She has a very upbeat personality, though it is sometimes overshadowed by the pain she feels from past memories. Sunny's story contains all elements of her incarceration, from the trial phase, through being imprisoned and exonerated, the trials she faced, and the after-effects of her imprisonment. Hers is the most complete out of all the stories, and because of that the audience gets a good sense for who she is and what she went through.

### **B. Case Bio**

Sunny was tried and convicted of the murder of two law enforcement officers and kidnapping another man in Broward County, Florida in 1976. Sunny, Jesse Tafero, their 10

month old daughter, Sunny's six-year-old son, and Walter Rhodes were sleeping in a car at a rest stop off of Interstate 95, when a Florida Highway Patrolman approached Rhodes' car on a routine traffic check. The patrolman, along with a visiting Canadian Constable, were shot and killed after Rhodes was discovered to be in possession of a gun while on parole. Sunny, Jesse, the kids, and Rhodes sped off in the patrolman's car, with Rhodes behind the wheel, then hijacked another car, kidnapping the man who owned the car in the process. Rhodes lost control of the car and crashed after trying to avoid a police roadblock.

While Sunny claimed Rhodes had shot the officers, Rhodes gave sworn testimony that it was Sunny and Jesse who had fired the fatal shots. There were two eyewitnesses to the crime, and neither account contradicted Sunny and Jesse's version of the event. Ballistics tests also showed that both Rhodes and Jesse had gunpowder residue on their hands from either holding a gun or firing a gun, while Sunny did not. Jesse's version of the story stated that Rhodes had given him the gun after shooting the officers, which would have caused the gunpowder residue.

Regardless of the lack of physical evidence against Sunny, the testimony of Rhodes, who was granted a more

lenient sentence in exchange for his testimony, as well as the testimony of a jailhouse snitch who claimed Sunny had confessed to her, led to Sunny's conviction. She was sentenced to life in prison by a jury, but the judge then overturned the sentence, instead sentencing her to death. The judge was a former Highway Patrolman who kept a miniature model of the electric chair on his desk.

The trial was surrounded by a lot of publicity, and the jurors admitted to having prior knowledge of the case through the media. Also, the jury was not sequestered during the trial phase, leading to tainting of the jury.

In 1981 the Florida Supreme Court, which had ordered an investigation three years earlier into Rhodes' contradictory statements, commuted Sunny's sentence to life in prison based on the fact that the judge in the case lacked sufficient evidence to overrule the jury's recommendation. Meanwhile, Jesse remained on death row and was eventually executed, very brutally, on May 4, 1990.

Due to the recanting of the jailhouse snitch, the recanting of Rhodes' testimony, and the help of a childhood friend, who was also a filmmaker, Sunny was granted her release in February 1992 by the Eleventh Circuit Court of Appeals ([www.law.northwestern.edu/wrongfulconvictions](http://www.law.northwestern.edu/wrongfulconvictions)).

**C. Character Storyline**

<u>Page #</u>	<u>Content</u>
20	Sunny introduces her personal background, her "husband" Jesse and her kids, and reveals the background situation. She discusses her trip to Florida, and her son's dream that "something bad would happen."
27	Sunny gives the details of the crime, and outlines the dire situation she was in. She talks about Rhodes stealing the police car, and their kidnap and eventual capture. There is then a brief scene at the end that shows her beginning to be interrogated, leading into her next section.
33	Sunny admits lying to the police in her interrogation, a move that she calls "stupid." She says she was scared, and then the scene shifts to her interrogation. It is a very intense scene and one of the few in the play where there is actual, physical conflict between people on the stage. The

officers badger Sunny as she becomes flustered. She is not completely truthful with them, and that just adds to the officers' negative attitudes. We then hear of Rhodes' testimony against Sunny and her husband Jesse, which ultimately played a large part in their respective convictions.

45 Sunny details how the court tells you exactly how they will execute you. She then explains her sentencing process and how she reacted to the reading of her sentence.

46 Sunny talks of her accommodations in prison, and the mental effects of becoming a prisoner. She talks about the fact that they give you a number, and that they take "who you are from you." She describes it as "being thrown into the bottom of a well."

54 In one of the most emotionally charged moments in the play, Sunny discusses how she and Jesse kept in touch while imprisoned.

She described the letters they would send, as well as how they continued their sex life! There is then a very emotional letter from Jesse that is read showing how deep their affection ran for one another.

60 Sunny speaks of her resolve not to let prison break her. She says that, while locked up, she found comfort in appealing to a higher source.

65 The section begins with a letter from Walter Rhodes that recants his previous testimony. Sunny emphasizes the fact that the letter was written in 1979 and she was not released until 1992. She then talks about the "joyous" feeling she had when she was released, and how she did not want to waste her time being angry, but rather wanted to do all the things she and Jesse had talked of doing together.

- 74 In a very emotional monologue, Sunny explains what happened while in prison; how her family had changed dramatically, and how Jesse was executed "very, very brutally."
- 75 Sunny talks of her desire to make an impact while still alive saying "That's my revenge." She also talks of how she has never been to Jesse's grave, though she does not believe it to be necessary, because "the grave is not where Jesse really is," and that her life is her monument to Jesse.

## CHAPTER 12

### PRODUCTION CONCEPTS

#### **A. Directing and Design Concepts**

From the beginning, Paige stressed that the focus of the play should be on the stories of the exonerated people more than anything else. In the original off-Broadway productions however, as well as subsequent touring and independent productions, the production values were kept to a bare minimum, as most productions were performed as staged readings. One of the problems with that however, is that the audience is constantly reminded that they are hearing an actor read the words of the exonerated people. Paige wanted to move away from that and present it as though the exonerated people had gathered in order to share their stories with the audience, and keep the "actor" part out of it. This is not to say that all previous productions used the "readers-theatre" format, but a large portion of them did. Paige believed that the stories would be received better if the audience was not bogged down in

people simply reading off of a page. The reason for this was because the audience would become more engrossed in the stories if the actors were not reading and flipping pages in their scripts.

Through production meetings, the idea of having the play set in something resembling a halfway house came up, and the concept seemed to fit. Paige had been looking for a way to justify the bringing together of all these people, and this idea seemed to work. While the final set design did not specifically resemble a halfway house, it helped to spark the direction in which the show would go. It allowed the scenic and lighting designers to move in the direction they did, and allowed Paige to begin moving forward with her concept.

The scenic designer then came up with the concept of having a split playing area that was separated by a hanging window. The upstage area was used for the memory scenes, while the downstage area was used for the "real-time" action. The idea was that the window was a way of looking into the past of these characters. The characters themselves still sat on stools, though they were free to move about as they told their stories, and there was a

bench down-center that the characters could sit on while their memories played out behind them.

Once the scenic design was finalized, it was left to Paige to enact her original concept. Since she wanted to have the characters interact with one another, the downstage area turned into a common area where the actors could interact and take turns sharing their stories with the audience. This created a communal atmosphere on the stage, and it felt to the audience as though the exonerated people had come together to tell them their respective stories. The characters were free to move around the downstage area, sharing their stories with one another, and more importantly, the audience. Paige also decided against using any sound effects in the production, so as not to detract from the stories. The result was a very straightforward presentation of the exonerated people's stories.

The one place where Paige did keep a theatrical effect was during the scene in which Kerry talks about the people that were executed while he was on death row. Kerry points out people in a book about Texas' death row who were executed, and the script calls for a sound effect mimicking the throwing of a switch. In this production however, since there was no book to begin with, Kerry referenced the

audience as if to say "this could be you being executed." Kerry points at the audience, to all sides of him, and says the word "executed" to represent the people that were executed while he was on death row. While he says this, and points to members of the audience, the lights flash quickly as if to represent an electrical surge. So even though there were no sound effects, the lighting was used to create a similar effect. Since this was the only "effect" in the show, it made that moment stand out from the others and increased the dramatic quality of the lines.

#### **B. Editing of the Script**

The editing of the script changed the play drastically, and shifted the telling of the stories more to the exonerated people. The majority of the changes in the script had to do with the redistribution of the lines in the memory scenes. Paige, working in the interest of featuring the stories of the exonerated people and highlighting the human component of the play, decided to cut down the number of memory scenes in the play. The edits allowed the characters to relate a larger portion of their stories without being disrupted by memory scenes.

The majority of the edits made to the script did not affect the plot, but simply redistributed lines. The plot of the play went forward uninterrupted with the exonerated people taking charge of their own stories. Perhaps the most glaring example from the play came during the scene in which Kerry's brother is murdered. The original script calls for a memory scene to be played out behind Kerry as he tells the story. While Kerry still narrates the action, the lines of the people involved in the story are spoken by the respective actors playing them, and the action plays out in front of the audience. After editing the script, it became a scene in which Kerry is on the stage relating the story to the audience without actors behind him. The action does not take place onstage but rather in the mind of the audience member, which can be equally powerful, if not even more so.

While the majority of the edits were like the above example, there were also small cuts. Most significantly, the letter that Robert sent to the judge about the guard spitting in his tea was cut. The courtroom scene during which Robert was ruled indigent was also cut, as were a few smaller scenes that did not further the plot; such as Kerry being fingered by the victim's roommate Paula. The smaller

scenes, such as Paula's, did not have any effect on the plot as they were only a few lines long to begin with, and the points were made without the scenes.

The overall effect of the editing and cutting of the script was a more personal show in terms of the exonerated people's stories. While the playwrights originally inserted the scenes to make the play more "theatrical," Paige believed the show sometimes became too theatrical and got away from the stories of the people. To counteract that, Paige lessened the memory scenes in order to make the show more about the people, and their stories, without being too theatrical. Her belief, as well as mine, is that the show is much more powerful when the audience truly believes that the stories are coming from exonerated people, rather than if they were aware that they were watching a play with actors. The edits Paige made helped to make that idea come to life.

## CHAPTER 13

### PRODUCTION HISTORY

The show was originally designed as a benefit piece to be presented before the 2000 Presidential elections. It debuted in New York at 45 Bleecker Theatre on October 31, 2000, but was structured as a night of reader's theatre where actors simply read monologues. The Exonerated ran for three shows, spanning three weeks, to sold out houses, and then played a command performance at the United Nations in New York in late November 2000. The show then went dark for a couple of years while Blank and Jensen played with the format. When it resurfaced in April 2002 at The Actors Gang in Los Angeles, it had a completely different look. Blank and Jensen had reworked the show in order to make it more "theatrical," and the new form of the play was born. It premiered on April 19, 2002 and, after a successful run in L.A., was brought back to the off-Broadway 45 Bleecker Theatre where its open run began in October 2002 and continues today.

Since then, The Exonerated has played in numerous regional theatres across the country, and many University and community theatres as well. Productions have popped up in every corner of the country; from Seattle, to San Diego, to Miami, to New York, and many places in between.

Even with all of this exposure around the country, the show continues to expand its scope. In January 2006, The Actors' Gang began a national tour of the play, giving performances at colleges and small theatres nationwide. On February 24, 2006, the international premiere of The Exonerated took place at Riverside Studios in London, where it runs through at least June 2006.

The show also continues to be performed all around the country by regional and University theatres alike, and it has amassed huge attention from both critics and audiences. In light of recent court rulings and legal activity in the United States, and as the debate about the death penalty heats up, the show may have life for several years to come.

## CHAPTER 14

### PRESS

The show was covered by three newspapers; The *San Marcos Daily Record*, the *Austin-American Statesman*, and the Texas State newspaper *The University Star*. All three articles served as publicity for the show, as they were featured before the run of the show or, in the case of the *Statesman*, during the run of the show. All three articles used information from the show press release to create their articles, while the University Star supplemented their article with an interview conducted with the production Stage Manager, Laura Marshall, and I.



Actors starring in "The Exonerated," coming soon to Texas State University, are (from left) John Flores, Forest VanDyke, Bridget Farias, Chauncy Limuel, Quinn Walton and Kelley Harmon. (Photo by Zack Stecklein)

## Interviewing The Innocent

Texas State University presents 'The Exonerated'

By Jayme Blaschke  
and Amanda Gass  
Special to The Record

Imagine having 22 years of your life taken from you. Imagine having your innocent husband put to death while awaiting your own execution date.

Imagine having to endure the scrutiny of the media and the general public.

Now imagine it was all for a crime you did not commit.

This was reality of the people whose stories are told in the award-winning play *The Exonerated* being presented at Texas State University-San Marcos.

The play features six people, including a farmer from the Midwest, a seminary dropout, and a mother of two, all exonerated of capital crimes. They share their stories of courage, inequality, injustice, racism and survival.

Written by Jessica Blank and Eric Jensen, performances will be Feb. 8-11 and 14-18 at 7:30 p.m. and Feb. 12 and 19 at 2 p.m. on the Studio Theatre in the Theatre Center on campus.

Playwrights Blank and Jensen traveled the country to interview numerous exonerees, and those interviews have become the text of the play. All spoken words are taken either directly from the exonerated

people themselves, or from court transcripts of their cases. The result is an inspirational and poignant look into the lives of these six people.

Winner of the 2003 Outer Critics Award for Best Off-Broadway play, the Dramatist Guild Award and the John Gassner Playwriting Award, *The Exonerated* is a dynamic character study of the impact of one's freedom and future being torn away has on those wrongly accused.

The play is directed by Paige Bishop.

All spoken words are taken either directly from the exonerated people themselves, or from court transcripts of their cases.

The result is an inspirational and poignant look into the lives of these six people.

Joyce Ann Brown, an exonerated individual, will be speaking after performances on Friday, Feb. 10 and Saturday, Feb. 11. In addition, attorney Walter Long will speak after the Thursday, Feb. 16 performance.

Admission is \$10 for the general public and \$5 for students with a Texas State ID. Tickets can be purchased at the University Box Office in the Theatre Center, located at the corner of Moon Street and University Drive.

For further information, contact the Texas State Box Office at 245-2204.

San Marcos Daily Record  
Friday, February 3, 2006  
Page 1B

# Best Bets

Thursday, February 9, 2006

Austin American-Statesman statesman.com

E2



Zack Stecklein

In 'The Exonerated,' actors (from left, John Flores, Forest VanDyke, Bridget Farias, Chauncy Limuel, Quinn Walton and Kelley Harmon) take the parts of six real people wrongly convicted of crimes that carried the death penalty.

## Guilty until proven innocent

### 'The Exonerated'

**When:** 7:30 p.m.

**Where:** Texas State University-San Marcos Theatre Center

**Cost:** \$10, \$5 for students

**Information:** (512) 245-2204

Most people will never have to go through the ordeal of having to prove one's innocence after being convicted — and sentenced to death — for a crime. But "The Exonerated," a play that opened Tuesday, aims to put audiences in the shoes of people who were exonerated of the crimes for which they were wrongly convicted.

Written by Jessica Blank and Erik Jensen, the play features six people, including a farmer from the Midwest, a mother of two and a seminary dropout.

After tonight's staging, 12 performances remain on the schedule, through Feb. 19.

— Ginger Cowles

THE  
UNIVERSITY STAR

TEXAS STATE UNIVERSITY  
SAN MARCOS

FEBRUARY 2, 2006

THURSDAY

VOLUME 95, ISSUE 49

## *The Exonerated* gives insight into lives of those falsely accused of homicide

By Carl Norberg  
The University Star

The Texas State Department of Theatre and Dance will present its re-creation of Jessica Blank and Eric Jensen's award-winning play, *The Exonerated*, beginning Feb. 8 at the Texas State Theatre Center

Directed by theatre and dance lecturer Paige Bishop, the play chronicles the lives of six death row inmates who were wrongfully accused, incarcerated and later exonerated.

"It's the characters telling their stories," said Zach Stecklein, assistant to the director and

theatre graduate student.

The play is a reconstruction of actual courtroom scenes and interviews with more than 40 death row inmates who have been absolved of their crimes. Every line is taken directly from court transcripts or interviews from an individual who has

"It's about our court system, the greatest court system in the world, and that there are inherent flaws in it, and there are things that go wrong."

— Zach Stecklein

assistant to play director Paige Bishop

been exonerated to produce an accurate portrayal of their lives and the events that took place after they reclaimed what was left of them

*The Exonerated* was originally produced as a stage read-

See EXONERATED, page 3

## EXONERATED: Directors aim for authenticity, unbiased viewpoint

CONTINUED from page 1

ing in New York, and has been the winner of several awards for playwrights Blank and Jensen including the 2003 Outer Critic's Award for Best Off-Broadway Play, as well as the Dramatist Guild Award and the John Gasner Playwriting Award.

Brought to Texas State by Bishop, *Exonerated* provides its audiences with stories that are an honest look at the lives of the inmates before and after their exoneration, said Stecklein

While being run by a majority of students, the staff-advised and produced production car-

ries a hefty message, Stecklein said

"It's about our court system, the greatest court system in the world, and that there are inherent flaws in it, and there are things that go wrong," he said.

Stage Director and pre-theatre senior Laura Marshall said she believes that the play will provide students with "an unbiased viewpoint, because of how the script is written and how Paige has chosen to present it," and "will hopefully be view-changing."

*The Exonerated* will run at 7 p.m. Feb. 8 through 11 and Feb. 14 and at 2 p.m. Feb. 12 and 19 in the Theatre Center's Studio

Theatre

Special guest speaker Joyce Ann Brown, a Dallas resident and former death row inmate sentenced to life without parole who was later exonerated, will address audiences after the Feb. 10 performance and Walter Long, a death row defense attorney will speak after the Feb. 11 performance

Students are encouraged to purchase tickets in advance as seating in the Studio Theatre will be limited. Admission prices are \$10 for the general public and \$5 for students, and can be purchased the University Box Office, located within the Theatre Center

## CHAPTER 15

### PRODUCTION ELEMENTS

- A. Cast Presentation and Handouts
- B. Press Release and Photo
- C. Program Notes and Program
- D. Lobby Display
- E. Production Photos

**A. Cast Presentation and Handouts**

The cast presentation was given via PowerPoint, and the copies of the slides are included. In addition, each principal cast member received case biographies of their respective characters. See Chapter 10 for character biographies.

# The Exonerated

By: Jessica Blank and Eric Jensen



# Background of the Play



## History of the Death Penalty

- Dates back to Hammurabi's Code (Ancient Babylonia c.1780 BCE)
  - Evidence of executions in Ancient Egypt, Rome and Athens
- During reign of Henry VIII, as many as 72,000 executions carried out
  - Executions regular in England until 1873 when death penalty reforms begin in England
- 1608→ first recorded execution in colonies

## History of Death Penalty cont.

- 1834→ PA became first state to ban public executions (carried them out privately)
- In the mid 19th century many countries, and U.S. states, abolished death penalty for all crimes except Treason
  - Some states increased use for crimes committed by slaves
- 1907-1917→ six states abolished death penalty; three others limited its use
- Resurgence of death penalty from 1920's-1940's
  - More executions in the 1930's than any other decade in American history
- Death sentences declined worldwide after WWII

## History of Death Penalty cont.

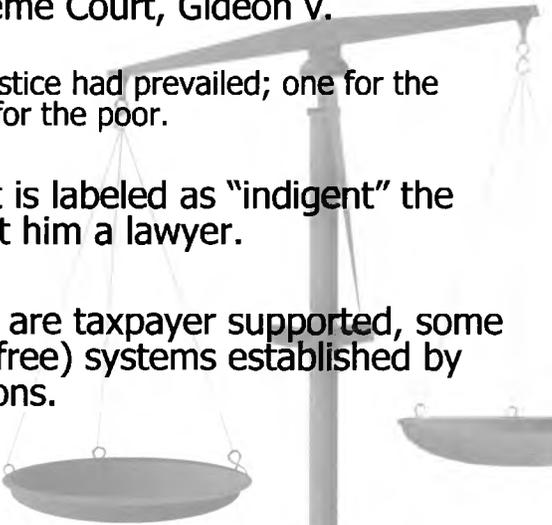
- 1972→ U.S. Supreme Court, *Furman v. Georgia*
  - Death penalty laws ruled unconstitutional
- 1972-1976→ Nationwide moratorium on the death penalty
- By 1976 many states found loopholes
  - 1977→ Gary Gilmore executed by firing squad
- Death penalty underwent many reforms and amendments

-facts courtesy of *Living Justice* and [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)

## Modern Death Penalty

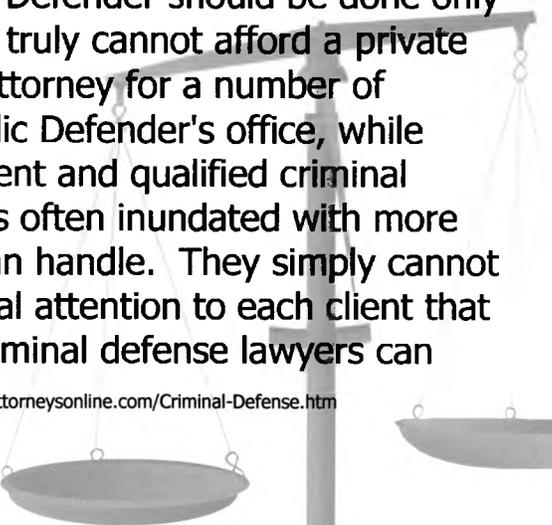
- 1999→ UN passes Resolution Supporting Worldwide Moratorium On Executions
  - In 2004, the resolution was co-sponsored by 76 UN member states
- 2004→ Innocence Protection Act (Justice For All Act)
  - Creates DNA testing system, as well as funding for it.
- 2005→ US Supreme Court, *Roper v. Simmons*
  - Declared the execution of juvenile offenders to be unconstitutional
- **Currently more than 3,400 people on death row in U.S.; highest known number in the world**

## Public Defense

- 1963→ U.S. Supreme Court, Gideon v. Wainwright
    - Two systems of justice had prevailed; one for the rich, and another for the poor.
  - When a defendant is labeled as "indigent" the court must appoint him a lawyer.
  - Almost all of them are taxpayer supported, some are *pro bono* (for free) systems established by local bar associations.
- 

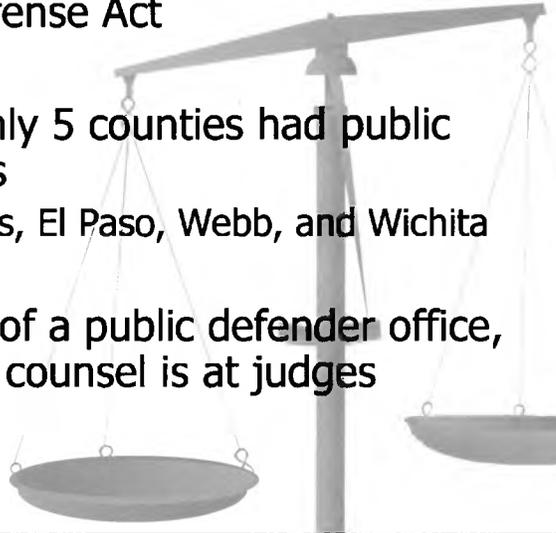
Accepting a Public Defender should be done only when a defendant truly cannot afford a private criminal defense attorney for a number of reasons. The Public Defender's office, while staffed by competent and qualified criminal defense lawyers, is often inundated with more cases than they can handle. They simply cannot devote the personal attention to each client that private defense criminal defense lawyers can offer.

<http://www.myattorneyonline.com/Criminal-Defense.htm>



## Texas Public Defense

- 2001 → Fair Defense Act
- Before 2001, only 5 counties had public defender offices
  - Colorado, Dallas, El Paso, Webb, and Wichita
- In the absence of a public defender office, appointment of counsel is at judges discretion

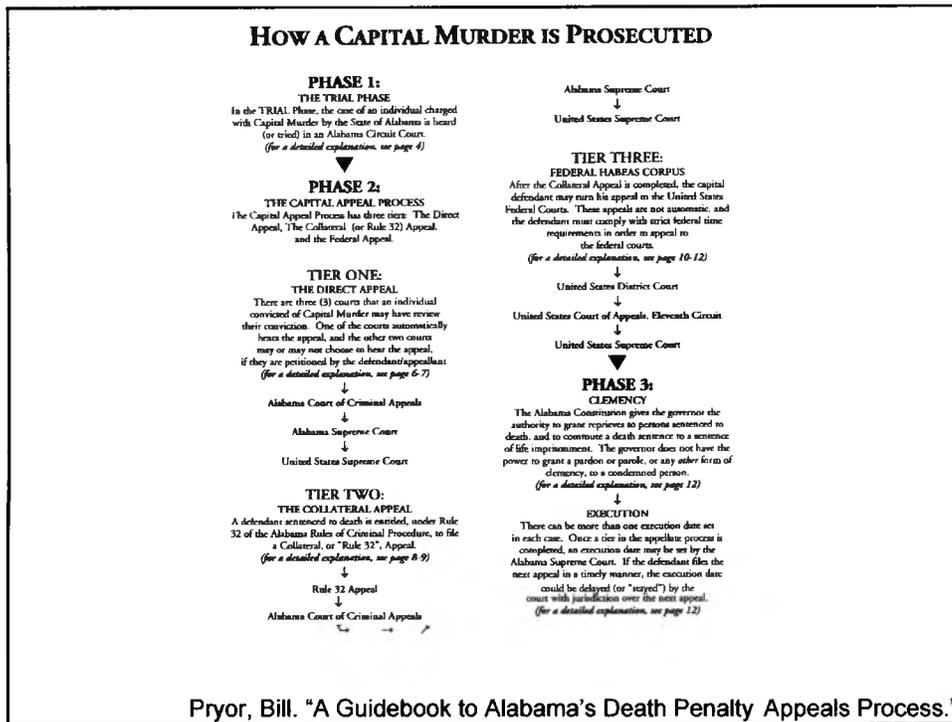


## Appeals Process

Every person convicted of a capital crime has the right to an appeal

Watch your eyes!!





## Death Row

- Currently more than 3,400 inmates on death row
- TX Death Row Statistics (as of 10/21/05)

**RACE (male) 402**

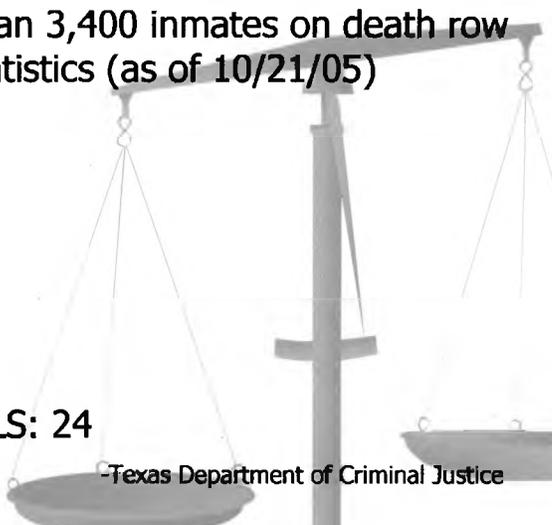
- Other - 4
- Black - 167
- Latino - 112
- White - 128

**RACE (female) 9**

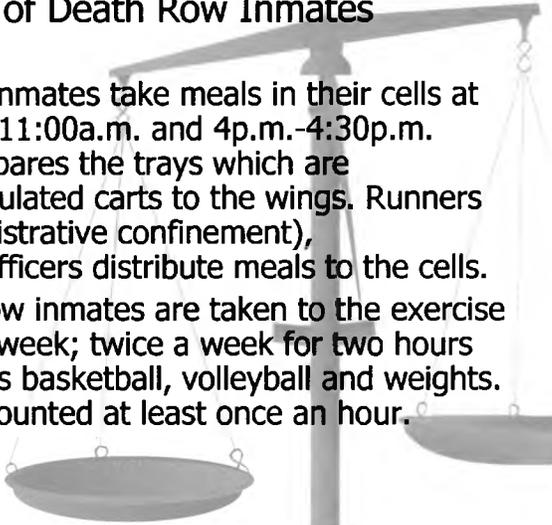
- Black - 5
- White - 4

**FOREIGN NATIONALS: 24**

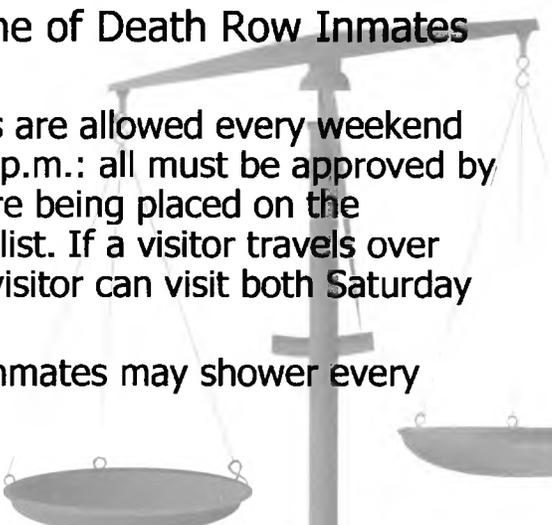
-Texas Department of Criminal Justice



## Life on Death Row

- **The Daily Routine of Death Row Inmates (Florida)**
    - **Meals:** Death row inmates take meals in their cells at 5a.m., 10:30a.m.-11:00a.m. and 4p.m.-4:30p.m. Food Services prepares the trays which are transported by insulated carts to the wings. Runners (inmates in administrative confinement), accompanied by officers distribute meals to the cells.
    - **Exercise:** Death row inmates are taken to the exercise yard four hours a week; twice a week for two hours each. The yard has basketball, volleyball and weights. The inmates are counted at least once an hour.
- 

## Life on Death Row

- **The Daily Routine of Death Row Inmates (Florida)**
    - **Visitors:** Visitors are allowed every weekend from 9a.m. to 3p.m.: all must be approved by the prison before being placed on the inmate's visitor list. If a visitor travels over 200 miles, the visitor can visit both Saturday and Sunday.
    - **Showers:** The inmates may shower every other day.
- 

## Life on Death Row

- **The Daily Routine of Death Row Inmates (Florida)**
  - **Security:** Inmates are escorted in handcuffs and wear them everywhere except in their cells, the exercise yard, and the shower. They are in their cells at all times except for medical reasons or legal or media interviews, or social visits. When a warrant is signed the inmate is allowed a legal and social call.
  - **Mail, Magazines & Entertainment:** Inmates may receive mail every day except holidays and weekends; they may have cigarettes and snacks, radios and black and white televisions in their cells. They do not have cable. They can tune into church services on closed circuit television. The televisions are paid for through the Inmate Welfare Trust Fund. Inmates occasionally play chess with a cell mate on either side of him/her.

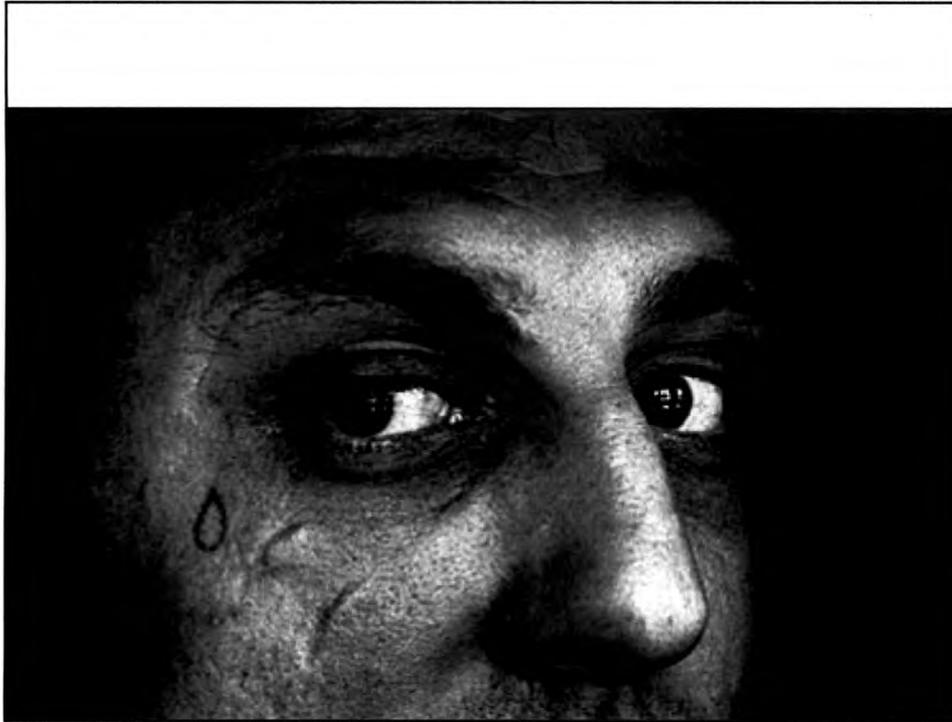
-“Death Row Fact Sheet” Florida Department of Corrections.



## Life on Death Row

- While cells differ in size by prison, the "standard" is about 60 sq. ft.
  - 10' x 6'





## Executions

- Since 1976, 1,001 executions have taken place.
  - Kenneth Lee Boyd (NC), #1000 (12/2/05)
- 2005 → 57 executions to date
  - 4 more planned by end of year



-Chart courtesy of [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)

## Executions

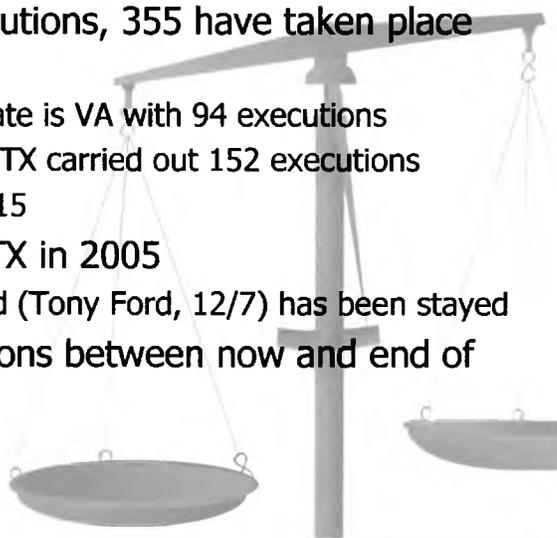
- There are five legal ways to execute someone in the U.S.
  - Lethal injection, electrocution, gas chamber, firing squad, and lynching
- All states except Nebraska have lethal injection as main form of execution
  - Nebraska requires electrocution
- 13 states have passed laws to ban the death penalty
  - 5 states have no legislation banning the death penalty, but have not carried out any executions

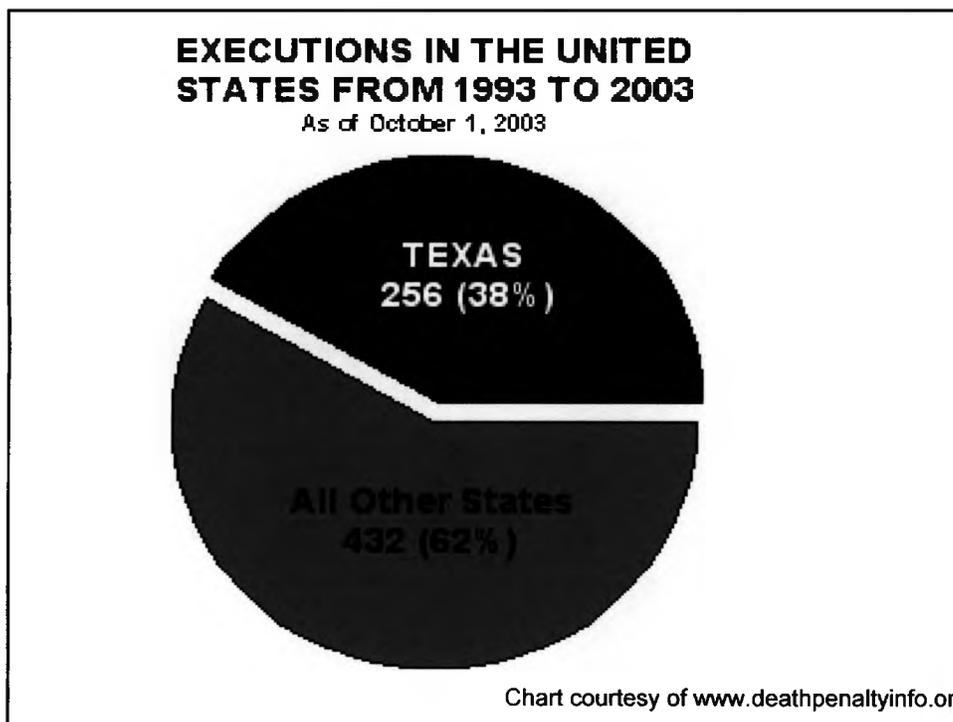




## Texas Execution Statistics

- Out of 1,001 executions, 355 have taken place in TX
  - Second closest state is VA with 94 executions
  - From 1995-2000, TX carried out 152 executions
  - 2001-Present → 115
- 19 executions in TX in 2005
  - One more planned (Tony Ford, 12/7) has been stayed
- 9 planned executions between now and end of June 2006



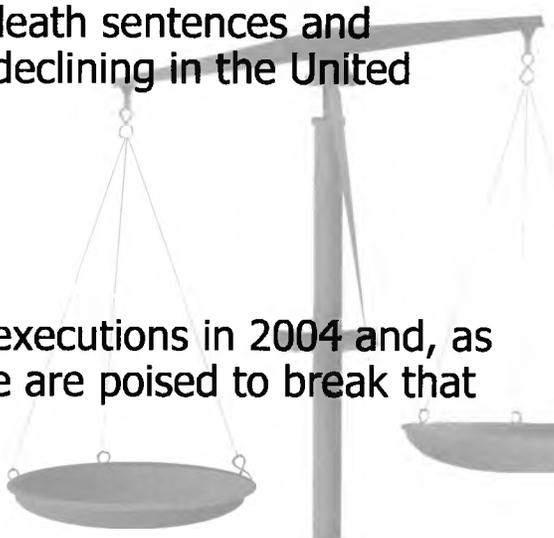


## Executions

- On the whole, death sentences and executions are declining in the United States

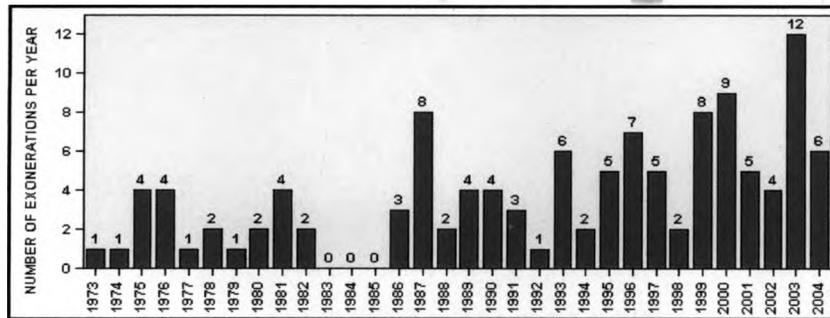
BUT...

- There were 59 executions in 2004 and, as of right now, we are poised to break that in 2005 (61)



## Exonerations

- Since 1973, 122 people in 25 states have been exonerated from death row
  - The most recent exoneration was Harold Wilson (PA), on November 15, 2005



-Chart courtesy of [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)

Travis County recently became the first Texas county to pass a resolution calling for a moratorium on the death penalty and an in-depth study of the state's capital punishment system.

-DeathPenaltyInfo.org

**B. Press Release and Photo**

Title: **The Exonerated** by Jessica Blank and Eric Jensen

Production Co.: Texas State University Department of Theatre and Dance

Description: True story of individuals exonerated from death row

Time/Date of Opening: February 7, 2006 at 7:30 p.m.

Ongoing Times and Dates: Feb 8-11, 14-18 at 7:30 p.m., 12<sup>th</sup> & 19<sup>th</sup> at 2:00 p.m.

Theatre Space/Address: Studio Theatre, Theatre Center, Texas State

University-San Marcos

Director: Paige Bishop

Tickets: \$10 general/\$5 Students

Box Office: (512) 245-2204

Imagine having twenty-two years of your life taken from you. Imagine having your innocent husband put to death while awaiting your own execution date. Imagine having to endure the scrutiny of the media and the general public. Now imagine it was all for a crime you did not commit. This was reality of the people whose stories are told in the award-winning play *The Exonerated* being presented at Texas State University-San Marcos. The play features six people, including a farmer from the Midwest, a seminary dropout, and a mother of two, all exonerated of capital crimes. They share their stories of courage, inequality, injustice, racism, and survival.

This could be you.

“An artful and moving evening of documentary theatre... The play is on the one hand a devastating memorial to injustice, but it also pays handsome tribute to the resilience of human hearts and minds.” -Charles Isherwood, *Variety*

Playwrights Jessica Blank and Eric Jensen traveled the country to interview numerous exonerees, and those interviews have become the text of the play. All spoken words are taken either directly from the exonerated people themselves, or from court transcripts of their cases. The result is an inspirational and poignant look into the lives of these six people.

After a performance at the United Nations and a successful New York run, *The Exonerated* is now being performed around the country to rave reviews. The play has won numerous awards, including the 2003 Outer Critics Circle Award, the Drama Desk Award, and the L.A. Ovation Award for Best World Premiere Play.

**Additional Information:** Joyce Ann Brown, an exonerated individual, will be speaking after the shows on Friday, February 10<sup>th</sup> and Saturday, February 11<sup>th</sup>. In addition, attorney Walter Long will speak after the show on Thursday February 16<sup>th</sup>.



Publicity Photo

(accompanied press release)

Photo by Stage Manager Laura Marshall

### C. Program Notes and Program for The Exonerated

The stories of past courage... can offer hope, they can provide inspiration. But they cannot supply courage itself. For this each man must look into his own soul. –John F. Kennedy

As of July 1, 2005, 3,415 inmates on death row in the United States; the highest known number in the world.

Since 1976, 357 prisoners executed in TX out of 1,010 total in U.S. (35%)

410 inmates on Texas death row as of 11/21/05, 69.5% of them are minorities.

The United States is the only developed country in the Western World to still institute the death penalty.

Executions scheduled in Texas for Wed. Feb. 8 and Wed. Feb. 15, 2006.

“An artful and moving evening of documentary theatre... The play is on the one hand a devastating memorial to injustice, but it also pays handsome tribute to the resilience of human hearts and minds.” -Charles Isherwood, *Variety*

“We no longer believe that our system functions in reality the way it does on paper. We no longer believe that the system handles the poor using the same hand with which it handles the wealthy. We no longer take for granted that we are safe just because we are innocent.” –*Exonerated* playwrights Jessica Blank and Erik Jensen

“We know that *everyone* is human: each of us has the capacity to make mistakes, act carelessly, be selfish--including ourselves, and also including lawyers, judges, politicians, and police.” –*Exonerated* playwrights Jessica Blank and Erik Jensen

The probability that we may fail in the struggle ought not to deter us from the support of a cause we believe to be just. –Abraham Lincoln

My belief is this: We do live in a great country. We do strive for a fair legal system. But to state Murphy’s Law; “Anything that can go wrong, WILL go wrong.” And death is too permanent to risk a “mistake.” -Director Paige Bishop

### THEATRE FACULTY

Janice Paige Bishop, M.F.A.  
Debra Charlton, Ph.D.  
Michael Costello, M.F.A.  
John Fleming, Ph.D.  
Melissa Grogan, M.F.A.  
Sheila Hargett, M.F.A.  
J.Jay Jennings, M.A.  
Laura Lane, M.F.A.  
Sandra Mayo, Ph.D.

Monica Michell, M.F.A.  
Charles Ney, Ph.D.  
Michelle Ney, M.F.A.  
Charles Pascoe, Ph.D.  
William R. Peeler, M.F.A.  
Richard Sodders, Ph.D.

### PART-TIME THEATRE FACULTY

Peggy Brunner, M.M.  
Tom Copeland  
John Hood, M.F.A.  
Jodi Jinks, M.F.A.  
Jerry Knight, M.A.  
Frederick J. March, M.A.  
David Nancarrow, Ph.D.  
Shane K. Smith, M.F.A.  
Paul Schimelman, B.F.  
Christin Yannacci, M.A.

### DANCE FACULTY

Michelle Nance, M.F.A.

LeAnne Stedman, M.F.A.

Pat Stone, M.A.

### PART-TIME DANCE FACULTY

Kaysie Seitz Brown, M.F.A.  
Tammy Fife, M.S.  
Caroline Sutton Clark, M.F.A.

### STAFF

Annie Patton  
Jennie Smith  
Sandra Foglia  
Shane K. Smith  
Lindsay Jones  
Homa Khosh-Khui

### STUDENT FRONT OF HOUSE STAFF

Ashley Duncan  
Amanda Gass & Liz Watts  
Allyssa Allain

Acting for Stage and Film  
Director of Graduate Studies, Dramaturgy  
Acting for Stage, Directing  
Chair, Theatre History  
Vocal Coach  
Costume Design  
Movement, Acting for Stage  
Acting for Stage  
Ethnic Theatre, Director Multicultural &  
Gender Studies  
Head of Teacher Ed., Child Drama  
Head of Acting, Directing for Stage  
Head of Design & Technology  
Head of Child Drama  
Introduction to Fine Arts  
Directing for Stage & Film

Singing for the Actor  
Business of Film, Film Production  
Theatre Management, Playwriting  
Acting for Stage  
Supervisor Student Teacher  
Academic Advisor, Intro to Fine Arts  
Visiting Professor, Lighting  
Lighting, Technical Theatre  
Stage Combat  
Creative Drama, Dramatic Theory

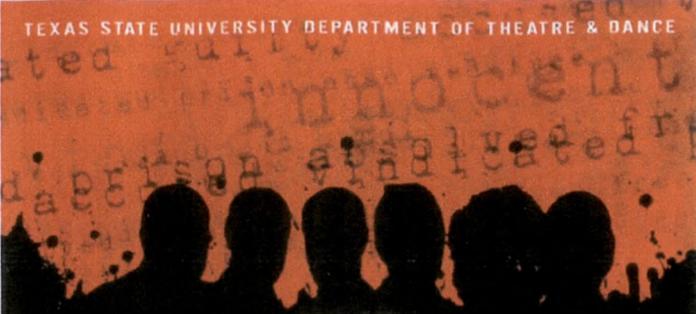
Intermediate/Advanced Technique, Performance,  
Production, Choreography  
Director of Dance, Dance History, Kinesiology,  
Choreography, Advanced Modern Dance  
Dance Composition, Dance Improvisation, Laban  
Movement Analysis

Dance Technique, Creative Movement for Children  
Beginning Ballet, Jazz Dance Pedagogy  
Ballet, Introduction to Fine Arts

Administrative Assistant III  
Administrative Assistant I  
Dance Administrative Assistant  
Scene Shop Supervisor  
Costume Shop Manager  
Costume Cutter/Draper

Box Office Manager  
Publicity  
House Manager

TEXAS STATE UNIVERSITY DEPARTMENT OF THEATRE & DANCE



**THE EXONERATED**  
BY JESSICA BLANK AND ERIC JENSEN  
DIRECTED BY PAIGE BISHOP

FEB 7TH - 11TH 7:30PM  
FEB 14TH - 18TH 7:30PM  
FEB 12TH & 19TH 2:00PM

ADULTS \$10, STUDENTS \$5  
STUDIO THEATRE / THEATRE CENTER  
BOX OFFICE #: 512-245-2204

Texas State University

TEXAS STATE UNIVERSITY SAN MARCOS IS A MEMBER OF THE TEXAS STATE UNIVERSITY SYSTEM

## Some Thoughts and Statistics Concerning Capital Punishment

"The stories of past courage. can offer hope, they can provide inspiration. But they cannot supply courage itself. For this each man must look into his own soul." - John F. Kennedy

"We no longer believe that our system functions in reality the way it does on paper. We no longer believe that the system handles the poor using the same hand with which it handles the wealthy. We no longer take for granted that we are safe just because we're innocent." - Jessica Blank and Erik Jensen

*\*In Texas, executions are scheduled for Wed. Feb. 8 and Wed. Feb. 15\**

Since 1976, 1010 prisoners have been executed in the United States, 357 of them have been in Texas

As of July 1, 2005, there are 3,415 inmates on death row in the United States, the highest known number in the world.

As of 11/21/05 Texas has 410 inmates on death row; 69.5% of them are minorities.

The United States is the only developed country in the Western World to still institute the death penalty.

"The probability that we may fail in the struggle ought not to deter us from the support of a cause we believe to be just." - Abraham Lincoln

"We know that *everyone* is human. Each of us has the capacity to make mistakes, act carelessly, be selfish—including ourselves, and also including lawyers, judges, politicians, and police."  
- Jessica Blank and Erik Jensen

Texas State University-San Marcos  
Department of Theatre & Dance  
Presents

## THE EXONERATED

By Jessica Blank and Erik Jensen

Directed By  
Paige Bishop

Costume Design  
Lindsay D. Jones

Lighting Design  
Britt Bahney

Scene Design  
Andrea Hood

Dramaturg  
Zach Stecklein

Stage Manager  
Laura Marshall

Produced by Special Arrangement with  
Dramatists Play Service, Inc.

Cast List

Delbert.....Forest VanDyke  
Gary.....John Flores  
Sue.....Katie Christman  
Robert.....Chauncy Limuel  
Georgia.....Kendra L. Franklin  
Kerry.....Quinn Walton  
Sandra.....Jennifer Flores  
David.....Kelley Harmon  
Sunny.....Bridget Farias  
Ensemble.....Matthew Albrecht  
David Boswell  
Amanda Gass  
Calvin Robertson III  
Harlan E. Short, Jr.

The play will be performed without intermission.  
Please turn off all cell phones, pagers, and electronic watches.  
Please no flash photography.

“An artful and moving evening of documentary theatre... The play is on the one hand a devastating memorial to injustice, but it also pays handsome tribute to the resilience of human hearts and minds.” -Charles Isherwood, *Variety*

Production Staff

Vocal Coach.....Melissa Grogan  
Assistant Stage Manager.....Claire Sappington

Costume Staff

Costume Design Adviser.....Sheila Hargett  
Head Cutter/Draper.....Homa Khosh-Khui  
Costume Shop Manager.....Lindsay Jones  
Assistant Costume Designer.....Stephen Wood  
Costume Shop Assistants.....Jessica Allen, Glenda Barnes,  
Rachel Brown, Andrea Hood,  
Laura Marshall, Molly McKee, Stephen Wood,  
Crystal Schaffner, Jiraporn “Kelly” Vuthikarn  
Graduate Student Assistant.....Jiraporn “Kelly” Vuthikarn  
Wardrobe Supervisors.....Stephen Wood, Amanda Harris  
Wardrobe Running Crew.....TH 3344 Class

Lighting

Lighting Faculty Supervisor.....David Nancarrow  
Staff Electrician.....Tony Saunders  
Master Electrician.....Kevin DeVos  
Lighting Crew.....TH 2338 Class  
Lighting Assistants.....Sarah Lazowitz, Kevin Devos

Sound

Sound Consultant.....Tony Saunders

Props

Properties Master.....Vlasta Silhavy  
Properties Running Crew.....Carley Brock, Kyle Maze,  
Jacki Pardue, Anthony Tejada,  
Toben Huges, Derrick Woodard

<b>Scenery</b>	
Set Design Faculty Supervisor.....	Michelle Ney
Scene Shop Supervisor .....	Shane K. Smith
Student Technical Director.....	Bohb Nelson
Scene Shop Assistants.....	Don Roose III, Karen Arredondo, Brian White, Todd Deaver, Bohb Nelson
Graduate Student Assistant.....	Zach Stecklein
Scenery Crew.....	TH1358 Class

<b>Front of House</b>	
Poster Design/Program Cover.....	Will Roman
Publicity.....	Amanda Gass & Liz Watts
Box Office Manager.....	Ashley Duncan
House Manager.....	Allyssa Allain

**“My belief is this:  
 We do live in a great country.  
 We do strive for a fair legal system.  
 But to state Murphy’s Law,  
 ‘Anything that can go wrong,  
 WILL go wrong.’  
 And death is too permanent  
 to risk a ‘mistake.’”**

**- Director Paige Bishop**

**About the Company**

**Forest VanDyke (Delbert)** is a B.F.A. acting major from Austin, Texas. Forest has been seen in the Original Theatre Company’s production of *The Two Lives Of Napoleon Beazley*. This season he was Private First Class Johnson in *Going After Cacciato*. He has also been seen as Sonny in *Foxtales* and in *A Little Night Music* as Mr. Erlanson.

**John Flores (Gary)** is a B.F.A. acting major at Texas State University who has also attended Sam Houston State University and Texas A&M University. While here at Texas State he has been seen in *Going After Cacciato* (Colonel Rhallon and Frenchie Tucker), *King Lear* as Lear’s Knight, and *Godspell* as Jeffrey.

**Katie Christman (Sue)** is a senior B.F.A. Acting major who has been seen in the Original Theatre Company’s production of *The Most Fabulous Story Ever Told*. While at Texas State, she has performed in *Tales of the Lost Formicans*, *Blood Wedding*, and *Three Days of Rain* as Nan/Lina.

**Chauncy Limuel (Robert)** is a sophomore acting major. He has been seen in *Candlestein* last year on the main stage, and in the Black and Latino Playwright’s Conference. He was also seen in the Performing Arts Association’s production of *The Fantasticks*.

**Kendra L. Franklin (Georgia)** is a senior B.F.A. Directing major from San Antonio, TX. She has been seen in *To Be Young, Gifted and Black* (Sarah) and in Black Playwright’s Conference productions of *Fear Itself* (Ivory) and *Somebody Called* (Natalie). She will graduate in May and is on the Dean’s List.

**Quinn Walton (Kerry)** is a freshman acting major. He has been seen in the production of *All My Sons* as Joe Keller, *The Crucible*, and *The Merchant of Venice*. Quinn was in this season’s performance of *Going After Cacciato* as Lieutenant Martin.

**Jennifer Flores (Sandra)** is a Junior B.F.A. acting major. In addition to attending Texas State she has also attended the University of Texas and Baylor. She has performed in *Con Mis Manos* as Jessica, *The Most Fabulous Story Ever Told* as Sharon, and *Marisol* as the Angel. She was seen in the Wimberly Players production of *The Sound Of Music* this summer.

**Kelley Harmon (David)** is an acting major from Winnie, Texas who transferred from Lamar University. He has been seen in the Original Theatre Company's production of *The Two Lives of Napoleon Beazley* (Antonio Thompson). While here at Texas State he has been seen as Judas in *Godspell*, the Pimp in *Edmund*, and in *King Lear* he was the Old Man.

**Bridget Farias (Sunny)** is a senior B.F.A. acting major and has been seen in the Summer Bridge Performance Troupe's production of *Electra in Pieces*. She was in the mainstage production of *Learned Ladies* as Belise and *Blood Wedding* as Madre. Bridget is the president of Alpha Psi Omega and will be getting married on the Texas State mainstage this March.

**Matthew Albrecht (Ensemble)** is a senior B.F.A. teaching certification major from Fredericksburg, Texas. While at Texas State University he has performed in *Bliithe Spirit* (Charles), *Beyond Therapy* (Stewart), and as Ariste in *Learned Ladies*. This year he was seen in *Going After Cacciato* as Medic Doc Peret.

**David Boswell (Ensemble)** is a senior B.F.A. acting student from Pflugerville. His credits include *Going After Cacciato* as Bernie Lynn, *A Werewolf Play* (Hyde), *Waiting for Lefty* (Clayton), *Equus* (Nugget), *Alice in Wonderland* as the Mad Hatter, and *King Lear* (French Soldier/Servant).

**Amanda Gass (Ensemble)** is a graduate student in Directing from San Antonio. She received her B.A. in Dramatic Media from Texas Lutheran University. She has performed in this season's *The Art of Dining* as Herrick Summons and TLU's production of *King Lear* as Oswald. Her directing credits include *Proof*, *W;t*, and *The Vagina Monologues*.

**Calvin Robertson III (Ensemble)** is from San Antonio, Texas. He comes to Texas State from Midwestern State University and is a senior Directing major. His film directing credits include *Hotel X* and *Cat and Mouse*. He was a featured extra in *The Life of David Gale* and has acted in *The Jon Strunger Show*.

**Harlan E. Short, Jr. (Ensemble)** is a junior B.F.A. acting major from Cameron, Texas, who is also an Eagle Scout. He has been seen at The Blue Theatre as Neal Cassidy in *Beat*, in *Edmund* produced by Rainbow Sherbert Bootleg Productions as the Store Owner and Leaf Letter. He also portrayed the Duke of Albany in last year's mainstage production of *King Lear*.

**Paige Bishop (Director)** Miss Bishop has been teaching in the Texas State University Department of Theatre and Dance since 1991. She has taught Acting for Television and Film, Beginning Acting for Stage, Intermediate Acting, Characterization, BFA Pre-Professional, Improvisation Techniques, and Introduction to Fine Arts. She has extensive and varied experience in theatre, nightclubs, television, and film. After graduating from the University of Texas with a B.F.A. in Acting with Honors, she moved to Los Angeles where she landed a role on the television show *Days of Our Lives*. She worked on the show for six years playing various roles.

**Britt Bahney (Lighting Designer)** is a B.F.A. Tech/Design major with an emphasis in Lighting Design. His Lighting design accomplishments at Texas State include *Equus*, *Ubu Rex*, and *Chamber Music*. He also worked as Master Electrician on this season's *The Art of Dining*.

**Andrea Hood (Scene Designer)** is a senior B.F.A. Tech/Design major from Seminole, Tx. At Texas State she has worked as Costume Designer for *Candlestein* and *The Art of Dining*. She has also worked as a Scenic Artist for the Texas Shakespeare Festival.

**Lindsay D. Jones (Costume Designer)** has been the shop manager at Texas State since March of 2005. She has worked on several shows at Texas State, including *Going After Cacciato*, *The Art of Dining*, and *King Lear*. Before coming here she had an internship in Tuscon, AZ at the Arizona Theatre Company, and previously worked at the Colorado Shakespeare Festival in Boulder, Co.

**Laura Marshall (Stage Manager)** is a Senior B.A. Theatre major with a Business minor. She has worked as Assistant Stage Manager for this season's *Going After Cacciato* and Stage Manager for *King Lear*, *Learned Ladies* and *Blood Wedding*.

**Melissa Grogan (Vocal Coach)** is certified as an Associate Teacher of Fitzmaurice Voicework and holds an M.F.A. in Acting from The University of North Carolina at Greensboro. She combines her expertise in acting with her training and in-depth knowledge of the voice to help her students or clients achieve their most expressive and flexible voice. In the past she has helped private clients that include actors, lawyers, teachers, and aspiring politicians (to name a few) sharpen their vocal skills.

We would like to thank  
our Pre-show Partner

**The San Marcos  
River Pub and Grill  
(701 Cheatham St.)**

**ENJOY A PRE THEATRE  
DINING EXPERIENCE AND  
RECEIVE A 10% DISCOUNT WITH  
YOUR THEATRE TICKET.**

Special Thanks

Joyce Ann Brown

Walter Long

**2005-2006 Main Stage Season Includes:**

**Texas State Black and Latino Playwrights Conference**  
Artistic Director Eugene Lee

Associate Artistic Director Luis Munoz

September 23 & 24 at 7:30 pm and September 24 & 25 at 2:00 pm

**Going After Cacciato**

By Romulus Linney from the novel by Tim O'Brien

Directed by Charles Ney

October 4-8 at 7:30 pm and October 9 at 2:00 pm

**The Art of Dining**

By Tina Howe

Directed by Richard Sodders

November 15-19 at 7:30 pm and November 20 at 2:00 pm

**The Exonerated**

By Jessica Blank and Erik Jensen

Directed by Page Bishop

February 7-11 & 14-18 at 7:30 pm and February 12&19 at 2:00 pm

**The Next Amendment**

By Charles Pascoe

Directed by Jay Jennings

March 21-25 & 28 at 7:30 pm and March 26 at 2:00 pm

**The Rover**

by Aphra Behn

Directed by Michael Costello

April 12-14 & April 19-22 at 7:30 pm and April 23 at 2:00 pm

**Graduate Student Final Directing Project**

**Danny and the Deep Blue Sea**

By John Patrick Shanley

Directed by Victoria Alvarez

March 2-4 at 7:30 pm and March 5 at 2:00 pm

For more information call the Box Office at 512-245-2204

**D. Lobby Display**

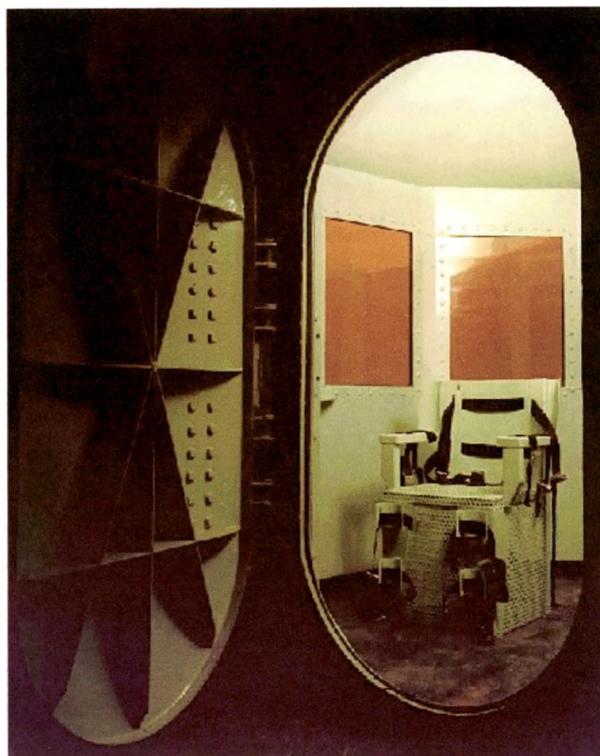
For the lobby display, I created a visual display board that was featured in the lobby that included the pictures contained in this section. All pictures were 8" x 10", and appeared in the same color format as they do here. The display also included this quote that was left out of the program:

With a few exceptions, each word spoken in this play comes from the public record--legal documents, court transcripts, letters--or from an interview with an exonerated person. The names of the exonerated people are their own. (Blank xiii)

The quote was blown up to 24" x 36", and placed in front of the lobby display in order to draw attention from audience members. There was also a smaller 8" x 10" model in front of the door.

The facts that are listed after the pictures were framed and displayed on the wall along the stairs as the audience members went from the lobby, up the stairs, and into the theatre. They were spaced out so that each would be read on its own, and the order was as they are listed below.

METHODS OF EXECUTION



GAS CHAMBER- [www.wikipedia.org](http://www.wikipedia.org)



ELECTRIC CHAIR- [cc4truth.com](http://cc4truth.com)



GAROTTING- [www.richard.clark32.btinternet.co.uk](http://www.richard.clark32.btinternet.co.uk)



FIRING SQUAD- [www.todesstrafeusa.de](http://www.todesstrafeusa.de)



LETHAL INJECTION- [www.crimelibrary.com](http://www.crimelibrary.com)



HANGING- [www.loc.gov](http://www.loc.gov)

LIFE ON DEATH ROW



Ken Light, "Texas Death Row" © 1997



Ken Light, "Texas Death Row" © 1997



Ken Light, "Texas Death Row" © 1997



Ken Light, "Texas Death Row" © 1997



Andrew Lichtenstein, "Life and Death Row in Texas"



Andrew Lichtenstein, "Life and Death Row in Texas"

**FACTS DISPLAYED IN LOBBY**

1. 13 executions scheduled in Texas between now and June 1<sup>st</sup>.
2. Since 1976, 122 people have been exonerated from death row.
3. On average, an exonerated person spends over 9 years on death row.
4. 1,130-Total number of years served on death row by people later exonerated of their crimes.
5. For every eight executions, there is one exoneration.

E. Production Photos















## CHAPTER 16

### SELF EVALUATION

When I first found out that I had been assigned to work as a dramaturg on The Exonerated, my initial reaction was excitement. I had only recently found the joys of dramaturgy through Dr. Charlton's Dramaturgy class, and I was very excited to have an opportunity to do something I thought might be a great career path for me. That same week I went and bought a script, along with *Living Justice*, the book detailing the making of the play, and began reading. The first time I read the play, it had a profound effect on me. I knew vaguely what the play was about before I read it, however I was not prepared to have my views on capital punishment challenged as I did.

It was not that I was staunchly in favor of capital punishment, nor was I greatly opposed to it. Growing up in California, a state that supports capital punishment but does not carry out a great number of executions, it was something that was simply accepted as a part of our legal

system. Even as socially conscious as I can sometimes be, it had never occurred to me to question the practice of putting people to death as a punishment for a crime. This play changed all of that.

I found myself thinking about the play a great deal, both dramaturgically and politically. While the play itself did not cause me to radically change my views, it caused me to think about and evaluate the practice of capital punishment. Then it dawned on me; this is what the play is about. The play was not designed to simply be a theatrical piece, it was meant to be a social statement about the death penalty and show that things can go wrong.

After this initial revelation, supplemented by some background research, I felt some of the tension melt away about the show. I felt I had a good understanding of the intent of the authors, especially after reading *Living Justice*, and felt comfortable moving forward with the show. When I began doing research for the show, I kept in my mind the social intent of the authors and their desired impact of the show on audiences. I felt that it was necessary however, to immerse myself in the great debate that was happening on the subject to understand it better. I researched both pro- and anti-death penalty organizations

and read their literature. Knowing both sides of the argument helped me to gain a perspective on the issue as a whole, and to understand the great passion with which people pursue this issue on both sides.

Once I felt comfortable with my knowledge of the capital punishment debate, I believed myself to be ready to begin working on the show. I felt that a good understanding of the issue would allow me to approach each task with an analytical mind, and allow me to see the show from a more critical point of view. I supplemented this knowledge of the death penalty debate with a good knowledge of the script, and I believe this served as a good base for all the work I did on the production.

For the most part the production went smoothly with no major problems. My meetings with Paige were very upbeat and productive, and with every meeting I seemed to get a better sense of where she wanted to take the production. In our first meeting, Paige, Dr. Charlton, and I met to discuss the show and what my functions would be as the dramaturg. The meeting went well and, while I perhaps was not as eloquent as I could have been, we set out a basic structure as to what Paige could expect from me in terms of the production.

My first task was to create a presentation for the cast, to be given on the night of the first read-thru. While I felt my presentation was well-researched, and well structured, I felt it was too dry for a group of actors. My intention was to keep the presentation academic, to keep a professional air about myself, however the final product was very dry and lifeless. While the actors seemed to respond well to it, it included many facts and dates that were not necessary, such as Supreme Court cases and dates that perhaps just served to muddle the message. The dates and titles were not the focal point of the presentation, however the way I displayed them on the PowerPoint presentation I created, it very well could have appeared that way.

I also felt the presentation lacked in "personality" as well. While I wanted to maintain a serious aspect to the presentation, to reflect the seriousness of the subject matter, it became more of a lecture than a presentation. While it may be an effective teaching tool and interesting to some, I felt it did not fit with *my* personality. I cannot help but think that there was some way in which I could have made the presentation more potent and interesting to everyone. However, I hope the subject

matter was interesting enough to hold the attention of the cast and help them to get acquainted with the subject.

Once the rehearsals started things went smoothly; that is to say there were no major problems. Meanwhile, I worked on the press release with Paige, as we had decided to do it together, and I believe it turned out well. While collaborations sometimes do not go very smoothly, I believe the tactic I employed worked well. I brought Paige ideas I had created for the press release, and she liked them and expanded on them. It was very easy to work with her on this and, as it turned out, it was easy to work with her on all other aspects of the production as well. I believe that her openness to collaboration, and my desire to see her ideas fulfilled, made for a great director-dramaturg relationship, and we encountered no major problems in that regard.

When we returned from Christmas Break, it became time to "buckle down" because the show opened about a month later. Over the break I had expanded my research, and worked to find a second speaker for the production. Ideally, we would have liked to have had a person exonerated from death row for our second speaker, however this proved to be more difficult than anticipated. Texas

has only exonerated a handful of people from death row, and many of them do not like to speak to the media or make appearances. Due to budgetary concerns however, we were limited to searching for people within the state of Texas.

The one good lead I had was a man named Randall Dale Adams. He was exonerated from Texas' death row in 1989 and was the subject of the movie *A Thin Blue Line*. He had been active in doing speaking engagements for many years, and had most recently done some work with Journey of Hope. I contacted Journey of Hope, and was told by the President, Mr. Bill Pelke, that Mr. Adams was now living in Ohio and was no longer doing speaking engagements. He did send me a list of people who may possibly be willing to speak, however none of them were in Texas. While we unfortunately could not get another exonerated person to speak, criminal attorney Walter Long did a great job as our second speaker.

I still feel as though something could have been done to secure a second speaker if I had been creative in figuring out the economics. While Walter Long was an admirable replacement, the effect on the audience would have been much greater had we attained a second exonerated person to speak. The audience seemed to have a very strong emotional response to Joyce Ann Brown's talks, which is

what Paige was really aiming for. While Walter Long's talks were intellectually stimulating, the reaction from the audience was not as strong as during Ms. Brown's talks. In hindsight, the production would have been well-served had I figured out some way to raise funds to finance bringing in an exonerated person to speak.

Before dress rehearsals began, we had to have the program notes finalized. We had decided to collaborate on them, as we did with the press release, and so I took the same approach as before. We decided to forego the "traditional" narrative program notes in favor of a series of facts and quotes that would help the audience member get into the right mood for the show. I gathered facts that I thought would have the desired effect and submitted them to Paige. She then took what facts I had and expanded upon them, adding quotes from various places. She also asked if I could find some good quotes about "courage," which was the University theme for the year. After she picked her favorite quotes, we thought the program notes were finalized and sent them to the publicity office for inclusion in the program.

Opening night, after the show Paige approached me and said "something was missing from the production." She was

referring to a quote from the preface to the script that stated, in effect, that all the words spoken in the play were true and from real people. This was obviously a large problem because without that quote, there was no way for the audience to know that the play was "in their own words;" a point that is very powerful and key for the audience to get everything they can out of the production. We had to figure out a way to rectify the problem, and we eventually settled on placing a large sign along with the lobby display downstairs. It was placed in such a way that it became the focal point of the display, so people were sure to see it. We also placed a sign near the door the people entered the theatre through. Leaving out this quote was a big blunder on my part, as I did not include it in the original page I created. Somehow it slipped through without Paige or I noticing and ended up creating problems.

One of the problems it caused had to with the lobby display. When the sign was placed in front of the lobby display, it took up so much space that I was forced to rearrange the layout. Strangely enough however, after the display was rearranged, it looked better! One of the problems with the display before the sign was placed in front was that there was too much empty space. It was not

an unattractive display to begin with, however the sign took up just enough space as to condense the other photos and headings, and create a more visually interesting display.

I felt the lobby display as a whole turned out fairly well. Between the photos on the actual display board in the lobby and the facts I displayed on the walls going into the theatre, I felt that it created a good atmosphere for an audience member going into a play where they may not know what to expect. The pictures I chose were very visually stimulating, and I overheard many people commenting on them, having brief dialogues about the content. The facts on the walls, supplemented by the facts and quotes in the program, helped to create the "questioning mind" we were hoping the audience would come in with. The facts were very straightforward, some were even shocking, and hopefully they caused the spectators to begin to question the system that could allow these sorts of "mistakes."

The dress rehearsals were the part of my dramaturgical functions I was dreading most and, once there, I found myself in a philosophical quandary. I was not sure exactly how to critique, and was worried about either going too

far, or not far enough with my dramaturgical observations. While I had developed a good working relationship with Paige, I still was not sure if she would feel like I was infringing on her creative construction of the play, and exactly how she would respond to my criticism; and for that matter, I was not entirely sure what I should criticize.

I went into the first dress rehearsal having re-read the script and ready to search for ways in which the show deviated from both the authors' and the director's concepts. Other than that, I was not entirely sure what I should be looking for. I settled in to begin my viewing, endeavoring to think like an audience member who had never seen the show before, and at the same time, as a dramaturg who had worked extensively with the text. I took notes during the show, what I thought were good dramaturgical notes, and got ready to present them to Paige.

Luckily Dr. Charlton, a much more experienced production dramaturg and director with a long-standing relationship with Paige, was also there that night. I was able to talk briefly with her about what sort of notes she had taken, and then got to witness her sharing her notes with Paige. Surprisingly many of the major notes Dr. Charlton had were some of the same things I had taken note

of, but while we shared certain observations, her notes were much more detailed than mine. She not only made notes of her observations, but went in-depth with her analysis, something I did not do.

This was obviously something I *should* have been doing, but I think my apprehension towards the process overwhelmed my desire to be critical. After watching Dr. Charlton make her observations to Paige, I had a much better idea of the sorts of things I should be looking for. When I came back a couple nights later, I took very detailed and complete set of notes, some that even ventured into the realm of directing notes. However, Paige was very open to hearing my observations, as well as Dr. Fleming's, who was also there that night.

In retrospect, that feeling of apprehension haunted me throughout the entire process. During the entire run of the show, from pre-production, through dress rehearsals, I always felt as though I was a student dealing with professors, which I was; but I never settled into the role of the dramaturg comfortably. I think because of my lack of production experience on the creative side of things, I always felt out of place. It was not because of a lack of confidence in my abilities or in my knowledge of the play,

but rather my lack of experience in dealing with a cast and attending production meetings and things of that sort.

Strangely enough, by the time I began growing comfortable in the shoes of a dramaturg, the show was ending. However when I do this again, I will have a much higher level of confidence in what I can, cannot, should, and should not do.

With that said however, I do not feel as though my apprehension in any way took away from me thoroughly performing my functions. If anything, it simply forced me to be more attentive to what was happening around me, and maintain the "silent partner" role a dramaturg should aspire to be.

Perhaps my largest failing in this production came when trying to figure out how to use multi-media in the production. Paige had expressed interest from the beginning in using some sort of multi-media throughout the production. When that became a problem technically, she began to scale back her idea and decided to just use a short video at the beginning of the show in order to set the tone for the show. I was involved with Paige in trying to find material for the video, however it never occurred to me that there may be issues with copyright infringement.

While we moved forward with the idea, a debate began about the legality of using the material in front of a paying audience, and I eventually set out to study copyright law and find out what the rules were. What I found was inconclusive, but it led us to the belief that it would be a very large risk to use the video in the theatre. My failing was not in being able to find a way to use the video, but rather in not realizing in time that there may have been an issue. The situation became a larger issue than it should have been. While the situation was eventually solved, it took up a great deal of time and energy.

I believe that despite the small problems we faced, the show went very smoothly overall. I believe I had a positive impact on the production as a whole, and performed my tasks adequately and in a timely fashion. I consider this appointment an excellent learning experience, and something that I truly enjoyed and would like to do again. My only hope is that I had the same positive impact on the production that this whole experience had on me.

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## **VITA**

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