



In N.C., People of Color are ‘Harshly Treated, Severely Punished, and Presumed Guilty’

By CDPL Staff

“In our courts, African-Americans are more harshly treated, more severely punished and more likely to be presumed guilty.” — North Carolina Supreme Court Chief Justice Cheri Beasley

After the abolition of slavery, states including North Carolina sought to maintain white supremacy. North Carolina enacted laws, now known as Black Codes, designed to make sure that, even after Emancipation, Black Americans were harshly treated, severely punished, and more likely to be presumed guilty. These codes never went away; they simply evolved into our modern criminal and capital punishment system. Then and now, Justice Beasley’s statement rings true.

African Americans are more harshly treated.

In 1866, North Carolina’s laws explicitly stated that, in criminal cases, testimony by people of color was inadmissible, unless both parties consented. If people of color were allowed to take the stand, only they were “warned to tell the truth.” White witnesses did not get the same warning. Today, instead of objecting to a person’s skin color to keep them silent, prosecutors use peremptory strikes and coded language to remove Black jurors. In North Carolina, Black citizens are more than twice as likely to be dismissed from capital juries as white citizens. Of the approximately 140 people on North Carolina’s death row, more than 30 were sentenced to death by an all-white jury, and in nearly 40 more cases, only one person of color served on the jury.

African Americans are more severely punished.

North Carolina’s Black Codes explicitly stated that people of different races could be punished differently for the same crime. For example, only Black individuals were sentenced to death for being convicted “of an assault with an intent to commit rape upon the body of a white female.” White individuals were sentenced to time in prison. In 1951 in North Carolina, a Black man was prosecuted for assault with intent to rape for allegedly looking at a seventeen-year-old white girl inappropriately — from a distance of seventy feet, no less.

Vagrancy laws criminalized “spending time in dissipation, or gaming, or sauntering about without employment.” People with money would just pay costs and fees. People without money were imprisoned or sentenced to the workhouse for however long the court

wanted. These vagrancy laws were disproportionately applied to Black men, who were then subjected to a new form of slavery: convict leasing.

States profited from sending unpaid prisoners to private companies like U.S. Steel and the Western North Carolina Railroad, and Black lives became disposable. In just three years, more than 50 people died while working as convicts leased to Western North Carolina Railroad. It didn't matter that they were essentially sentenced to death for petty offenses. The practice continued. When twenty other Black men died in a boat accident while working on a railroad tunnel, dragged to their death by the chains that linked them together, their bodies were buried in a mass unmarked grave, their deaths deemed an accident, and twenty new men took their place to resume business as usual.

In the 1990s, the "tough on crime" era took a similar approach: create racially-neutral criminal laws on their face, but disproportionately apply them based on a defendant's race. The most well-known example is the crack-cocaine sentencing disparity. Even though powder and crack cocaine are the same drug, possessing 5 grams of crack-cocaine meant five years in prison, while it took 500 grams of powder cocaine to get the same sentence. White defendants are more likely to be convicted of powder cocaine possession, and Black defendants are more likely to be convicted of crack possession, which means Black defendants were judged 100 times more harshly than their white counterparts for possessing the same drug. Currently, the "more fair" disparity is an 18:1 ratio, which still disproportionately affects Black defendants.

North Carolina's modern death row further exemplifies how much more harshly defendants of color are punished. In North Carolina, the death penalty can be imposed even if the accused didn't personally kill the victim. The only people who were sentenced to death under this provision are people of color: one is Black and one is Native American. An individual can also be sentenced to death if someone died during the course of a felony, even if the person didn't intend for anyone to die. Everyone with sentences under this law are men of color: six are Black and one is Latino.

Children and people with intellectual disabilities are also more likely to be sentenced to death if they're Black. After the Supreme Court ruled that it was cruel and unusual to execute a person with an intellectual disability or a child who was under 18 at the time of the crime, the disparity became evident. Sixteen of the eighteen North Carolinians whose death sentences were commuted due to intellectual disability were Black. Three of the four juveniles who had their sentences commuted because of their age were Black.

African Americans are more likely to be presumed guilty.

According to the [Equal Justice Institute](#), North Carolina has lynched at least 132 African Americans. The Equal Justice Initiative believes there are thousands more undocumented lynchings in the United States. The threat of death didn't end with the practice of lynching. It persisted in our courtrooms. Before *Furman v. Georgia*, a 1972 Supreme Court case that declared the death penalty unconstitutional, 80 percent of North Carolina's

executions were of defendants of color, sometimes with little or no evidence connecting them to the crime of which they were accused

Since *Furman*, ten people have been exonerated after being sentenced to death in North Carolina. Of the ten exonerees, eight are Black, one is Latino, and one is white. The most common reasons for wrongful convictions include false accusations and witnesses lying in court, police and prosecutor misconduct, and misleading forensic evidence.

A [2017 national study](#) found that when exonerees were Black, their cases were 22 percent more likely to include police misconduct than the cases of white exonerees. Five of the Black men – Levon “Bo” Jones, Jonathan Hoffman, Glen Edward Chapman, Samuel Poole, and Christopher Spicer – were convicted of crimes with white victims. In 2006, three psychologists found that, in cases where the victim is white, Black defendants are more likely to be sentenced to death the more they have stereotypically Black features. Essentially, when charged with the death of a white person, Black men look more “[death-worthy](#).”

Jones, Hoffman, and Spicer were all convicted after the prosecution presented witnesses who were paid and who lied. At Glen Chapman’s trial, the prosecutors hid evidence, tampered with witness statements, and the lead investigator lied on the stand. Samuel Poole was sentenced to death for burglarizing a white woman’s home. There wasn’t enough evidence that he committed the crime, but the jury’s fear of a Black man invading a white woman’s private space was enough to secure a conviction. The court then explicitly endorsed the racism that underpinned Poole’s conviction, stating:

In 2014, death row prisoner Henry McCollum gained national attention when he and his brother, Leon Brown, were exonerated after more than 30 years behind bars. The brothers were convicted with no forensic evidence tying them to the crime. Instead, the prosecution relied on their own coerced confessions. Henry was 19 and Leon was just 15; both had intellectual disabilities. Investigators kept them in separate interrogation rooms without lawyers or their parents present until they finally agreed to sign graphic confessions that the officers wrote for them because they were told if they did, they could go home. They retracted them almost immediately. Even so, United States Supreme Court Justice Scalia used Henry as the face of the death penalty, arguing he was the reason the practice was needed. Henry was North Carolina’s longest serving death row prisoner when he was finally exonerated by DNA evidence.

In addition to these ten men, five others have been granted clemency in North Carolina. Clemency is rarely granted, and each of the five cases had sufficiently troubling facts to prompt commutation, yet did not get relief in court. All five men granted clemency were people of color: four Black and one Native American.

Until we remove the taint of racism from our system, we will never be sure whether the person we're executing is actually guilty, or whether they are being more harshly treated, more severely punished and more likely presumed guilty because of the color of their skin.