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New Research: Harris County District Attorney's Office Was Three Times More Likely to Seek Death for African Americans Like Duane Buck

Mr. Buck, Called a Future Danger Because He is Black, Files Petition Seeking New, Fair Sentencing Hearing

(Houston, Texas, March 13, 2013) A significant new study finding racial bias in Harris County's death penalty system was released today in [an appeal filed](#) by condemned prisoner, Duane Buck, in Harris County's 208th Criminal District Court. Mr. Buck challenges his death sentence as an unconstitutional product of racial discrimination and presents [research showing that](#) at the time of his 1997 capital trial, the Harris County District Attorney's Office was *over three times more likely to seek the death penalty against African American defendants like himself*, than against similarly-situated white defendants. The research also shows that Harris County juries were *more than twice as likely to impose death sentences on African American defendants in cases like Mr. Buck's*, than on similarly situated white defendants.

Mr. Buck, who seeks a new, fair sentencing hearing, cites a recent analysis conducted by University of Maryland Professor Ray Paternoster. [Prof. Paternoster](#), who has more than 35 years of experience in criminology and quantitative methods, examined data on over 500 Harris County cases in order to identify and compare, based on a comprehensive set of variables, the cases most similar to Mr. Buck's. Prof. Paternoster found that in the cases like Mr. Buck's, the Harris County District Attorney's Office sought the death penalty 20 percent of the time when the defendant was white and 70 percent of the time when the defendant was African-American. This sharp disparity was similarly present in the decisions of Harris County sentencing juries: juries imposed death 20 percent of the time in the cases similar to Mr. Buck's, that involved white defendants and 40 percent of the time in the cases involving African-American defendants

"We are all at risk when our justice system allows prosecutors and juries to exercise lethal discretion based on race," said Sherrilyn Ifill, Director Counsel for the NAACP Legal Defense & Educational Fund, Inc. which represents Duane Buck, along with Kathryn Kase of the Texas Defender Service and attorney Kate Black. "Duane Buck's

case is as much about his own unlawful death sentence as it is about the ability of Harris County's criminal justice system to produce outcomes free from the taint of racial discrimination."

David Kirk, Associate Professor of Sociology at The University of Texas at Austin, said that "Professor Paternoster's research conforms to highly rigorous standards for statistical analyses. His conclusion - that there is strong evidence of Black-White disparities in the advancement of cases to a death trial as well as the imposition of a death sentence - is the logical, and profoundly disturbing, conclusion to be drawn from the weight of the available data."

The evidence of racial discrimination in Mr. Buck's case is not limited to Prof. Paternoster's recent study. At Mr. Buck's capital sentencing hearing, the trial prosecutor elicited testimony from a psychologist that Mr. Buck posed a future danger to society because he is black. The prosecutor relied on this testimony in arguing in favor of a death sentence.¹ The jury accepted the prosecutor's argument, declared Mr. Buck a future danger, and sentenced him to death. Three years later, then-Texas Attorney General (now U.S. Senator) [John Cornyn acknowledged that](#) reliance on testimony connecting race to dangerousness was wholly unacceptable and promised that the Attorney General's Office would seek new, fair sentencing hearings for seven people, including Mr. Buck, whose cases were tainted by such testimony. The State kept its word in every case – *except for Mr. Buck's*.

"The suggestion that a person's race can be a basis for assessing the ultimate penalty of death undermines our entire system of justice," said Gary Bledsoe, President of the Texas NAACP. "I am hopeful that the Harris County District Attorney's office will take action to start and make amends for the many wrongs it has perpetrated against African-Americans, including many facing the most serious of punishments."

Mr. Buck's life was spared by the U.S. Supreme Court before his scheduled execution in September 2011. Although [two U.S. Supreme Court justices agreed](#) that Mr. Buck's death sentence required review because "our criminal justice system should not tolerate" a death sentence "marred by racial overtones," the case is now back in the hands of state officials.

"Texas should honor the promise that was made by the highest legal officer in the state, then-Attorney General John Cornyn, and grant Mr. Buck a new, fair sentencing not tainted by racial discrimination," said Texas State Senator Rodney Ellis, whose district includes parts of Harris County.

One of Mr. Buck's trial prosecutors, former Harris County Assistant District Attorney Linda Geffin, and the surviving victim, Phyllis Taylor, have joined Sen. Ellis in opposing

¹ "You heard from Dr. Quijano, who had a lot of experience in the Texas Department of Corrections, who told you that there was a probability that the man would commit future acts of violence." *Source: State's Closing Argument, Cause No. 699684, Reporter's Record, Volume 28, p. 260 (1997).*

Mr. Buck's execution. Ms. Taylor explained, "I have forgiven Duane and could not bear to see him executed. I pray that his life is spared."

As Kate Black, counsel for Mr. Buck, explained, "This case is very simple: no death sentence can be supported by an appeal to racial prejudice."

For more information about Mr. Buck's case, please go to: <http://www.naacpldf.org/case-issue/duane-buck-sentenced-death-because-he-black>

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