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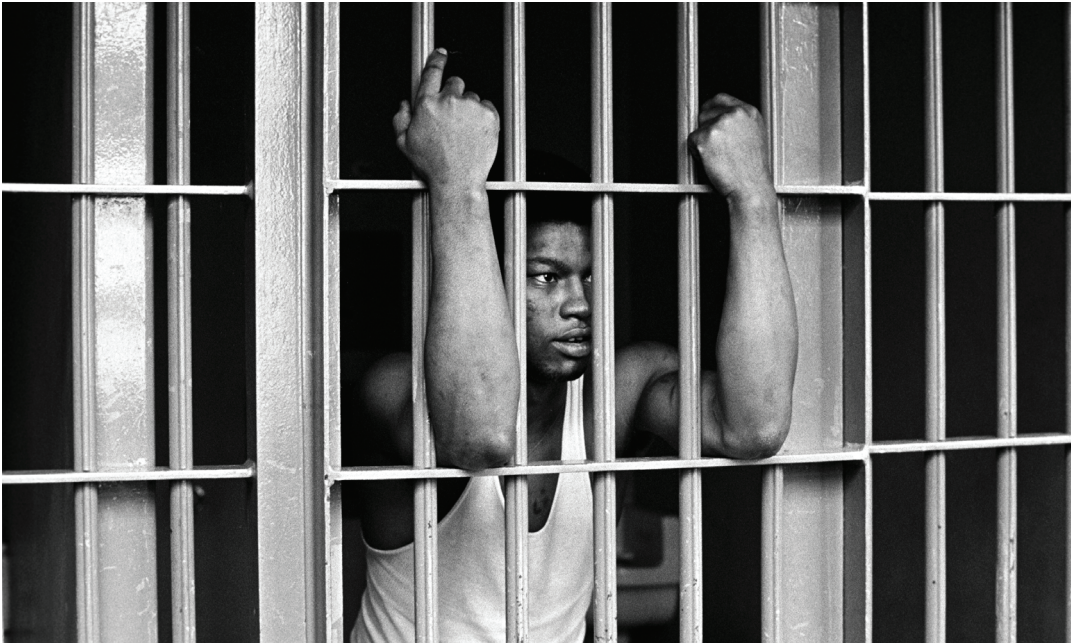
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Kenneth Davis, Sentenced to death, December 19, 1977; sentence reduced to life, November 13, 1981. Eligible for parole since December 19, 1997. © Bruce Jackson and Diane Christian.



Planting the Seed: A Roundtable on Death Penalty Narratives

Featuring Jessica Blank, Pamela Colloff, David R. Dow, Anthony Graves, Zachary Martin, and Jill Patterson

The following discussion grew out of the composition courses I teach at the University of Houston, which over the years have developed into a vehicle for exploring the rhetoric of capital punishment in America. My students and I discuss (and argue about) the effect the articles, films, essays, plays, memoirs, and philosophies mentioned in the below roundtable and written by its participants have on both their personal perceptions of, and the larger public discourse about, the death penalty. Though the abolition of the death penalty is a given in many countries, and even in some parts of this country, in Texas, as in many Gulf Coast states, the issue remains divisive. This discussion was an attempt to dig further into discovering what gives “death penalty narratives” their power in a culture that refuses to relinquish their view that homicide must necessarily be repaid in kind. The photos that are interspersed throughout this feature were all taken by Bruce Jackson and Diane Christian during Easter Week, 1979, on the Texas Death Row for men at Ellis Prison, near Huntsville, Texas, little more than an hour’s drive from Gulf Coast’s offices in Houston. The images can also be found in, most recently, In This Timeless Time: Living and Dying on Death Row in America (University of North Carolina Press, 2012).

—Zachary Martin

Zachary Martin: Since we're talking about storytelling and narrative, let's start our conversation at the beginning. When (and how) did the death penalty first make its way into your lives?

Anthony Graves: I was introduced to the death penalty one day when a knock came on my door. It was the death penalty. A police officer was told to come pick me up for questioning regarding a crime that I knew nothing about. I stayed in jail for more than two years until I was taken to trial. After a three-week trial, I was found guilty and sentenced to death. I knew absolutely nothing about the death penalty until I was wrongfully convicted.

Jessica Blank: In spring of 2000, Erik (Jensen) and I had been dating for about a month when I brought him to a conference on the death penalty at Columbia University. One of the workshops at that conference was on the "Death Row Ten," a group of men in Illinois who had all had confessions tortured out of them by a particular police commander. The commander was found to have done this and fired—and has now, many years later, finally been criminally charged and convicted—but these men, some of whom had no other evidence against them beyond these "confessions," were still sitting there in prison.

We heard a lecture on the case, and saw some documentary footage, and it was all quite unsettling, but on an intellectual level, like reading a newspaper article. But the workshop organizers had arranged for a phone call from one of the inmates in prison, and they hooked a cell phone up to a speaker, so that for a few minutes he was actually talking to us there in the room. He mostly just talked about wanting to come home—but by the time the call was cut off three minutes later, everyone in the room was in tears. It was incredibly moving, and a totally different kind of experience than the hour we had spent learning journalistically-framed facts about the case.

After the call, Erik looked around the room and said, yes, this is really moving, but here we are at a *death penalty conference*, in a room full of defense attorneys, clergy, activists, etc. These aren't the people who need to be having this experience. And we started writing notes back and forth to each other—literally in the back of the classroom—about how to get around the classic problem of "preaching to

the choir” and bring the kind of experience we had just had to people who were pro-death penalty, or had never really thought about it before, or were unaware that wrongful conviction existed.

We are both actors, and both of us were interested in documentary theater—I’d spent a lot of time studying Anna Deavere Smith’s work and Erik had crossed paths with Moises Kaufman (*The Laramie Project*)—and the idea occurred to us,

“I remember how shocked I was when I was sitting in the courtroom hearing the prosecutor present to the jury a completely made-up story...”

in that conversation, to interview people who had been sentenced to death and subsequently freed amidst overwhelming evidence of innocence, and create a play from the transcripts of our interviews. We spent a few months researching, writing a proposal,

and connecting with the Center on Wrongful Convictions, the Innocence Project, and several pro-bono death penalty defense lawyers; eventually, they all helped to introduce us to folks to potentially interview. We talked to 40 people on the phone, and then rented a car, raised some seed money (and spent our rent money) and spent the summer of 2000 driving across the country to interview about twenty death row exonerees in person.

David R. Dow: If I were twenty years younger than I am, I would not be a death penalty lawyer. I’d probably be representing detainees at Guantanamo Bay. The reason is that when I got involved in the death penalty, I had no interest in the death penalty. Instead, I had an interest in habeas corpus law, which I taught at the University of Houston Law Center. As it happened, the most important habeas corpus decisions at the time I was teaching the course were death penalty cases. That was mostly an historical accident. Today the most important habeas corpus cases are not death penalty cases; instead, they grow out of the so-called War on Terror. So to learn more about habeas corpus I taught myself death penalty law—which was quite a bit easier to do twenty years ago than it would be today. As part of that education, I went to death row to meet some inmates. At that time, death row inmates had just gotten the right to be represented by appointed counsel in federal death penalty proceedings, and death row inmates in Texas still did not have a right to be represented in state habeas corpus proceedings. There were something like

300 men on death row in Texas, and nearly all of them had no lawyers. One of the eight inmates I met on my first trip to death row was scheduled to be executed in two weeks, and he had never had a habeas corpus appeal, and he also had no lawyer. I agreed to represent him, even though I knew nothing about how to do the work; I figured I would probably be able to do a better job than he would, given that he read at an eighth grade level. And I simply could not accept that he would be executed without having had his appeals, and without a lawyer to navigate the extremely arcane legal proceedings. I never expected to work on another case—much less another hundred or so cases. But that's how it turned out.

That first client of mine was finally executed, but not until seven years later.

Jill Patterson: In the spring of 2009, I received an email from a business professor at Texas Tech, Hans Hansen, a complete stranger. He asked if I'd meet him for coffee to chat about the death penalty. His email was so mysterious, so different from my garden-variety days, I couldn't say no. At Starbucks, he rattled off every fact he knew about capital punishment in the state of Texas. When I told him I didn't support the death penalty either, he asked if I knew what attorneys called people who don't believe in executing criminals because one of them might actually be innocent. I shook my head but wasn't worried. Who wouldn't be against executing innocent people? "They call you 'automatic killers,'" he said. I took note of his pronouns. *You* meant *me*. I kept quiet.

He locked his eyes on mine, hard, steady, and said the Regional Public Defenders Office for Capital Cases (located there in Lubbock) was looking for a storyteller. He said 99% of their clients were guilty, which is how someone who's against the death penalty based solely on potential innocence can be seen as pretty damn trigger-happy. They needed a writer who could explain to a jury how a person might land in a place where he committed the kind of murder that made other people want to murder him. Did I think I could write narratives where guilty people were humans and not monsters, tales that ended with mercy (life without parole) instead of a needle in the arm? Could I get on board?

I had told my creative writing students for years that there is no such thing as an all-out villain. We're all a product of our own experiences. And so I said yes, yes, I could. It was time to practice what I preached.

Pamela Colloff: I never gave much thought to the death penalty—or to our criminal justice system, for that matter—until shortly before I went to college, when I saw the Errol Morris documentary *The Thin Blue Line*. I can't recall a film before or since that rocked my world as much as that one. Not only did it lead to a growing awareness on my part that the death penalty was fundamentally flawed; it showed me the power that storytelling had to change the conversation about the criminal justice system. A decade later, not long after I was hired at *Texas Monthly*, I decided to attend an execution while I was working on a story in Huntsville. In order to write about the death penalty, I felt that it was important to bear witness to it. That particular execution had not attracted any media coverage; it was another robbery case gone wrong out of Harris County. I remember being struck by how routine the whole proceeding was. I don't recall any protestors being present, or any of the defendant's family members. There were no last-minute appeals. It happened very quickly and quietly.

ZM: My own interest in the death penalty can, in large part, be traced back to Morris's film about Texas's Randall Dale Adams case as well. Though I can think of "innocence narratives" that pre-date it—Gene Miller's 1975 *Invitation to a Lynching* comes immediately to mind—*The Thin Blue Line* has perhaps had the most lasting impact on contemporary conversation about the death penalty. It's a film that plays with narrative convention, presenting the same story from multiple perspectives, a la *Rashomon*. David Grann's "Trial by Fire," about the case of Cameron Todd Willingham, does something similar, inviting the reader to vilify Willingham before it absolves him. Both Grann and Morris seem to be asking us to examine the difference between the "legal narrative" that juries hear and the "public narrative" that takes into account information that never made it to trial. The distance between the two versions of the same crime is often astounding. Is it fair to say that disconnect is part of what makes innocence narratives so compelling?

PC: *The New Yorker* writer Janet Malcolm once described a trial as "a contest between competing narratives," and I often think about that when I'm writing. Even though there are two narratives in the courtroom, rarely does either the prosecution's story or the defense's story capture the complexity of the defendant,

his life, the context in which the crime was (or was not) committed, or the victim. So much is left out of that “legal narrative.” My job, as I see it, is to provide context. Just as prosecutors or defense attorneys do, I must decide which details to dole out and which to de-emphasize. But context is key. If a defendant is continually described in court as having been “emotionless” about a murder, for example, I will interview people who know the defendant well to better understand this person’s reaction. Does this person respond to stress by becoming more animated or shutting down? Is this someone who is typically histrionic or taciturn, outgoing or private? These little details are important. I’m continually amazed



Jack Smith was forty years old when he came to Death Row in 1977. He has spent more time on Death Row than half of all Americans have been alive. © Bruce Jackson and Diane Christian.

at how seemingly ordinary facts—such as whether or not the defendant showed enough grief after a crime—can be recast by the prosecution as sinister, and how often character assassination is emphasized over simple facts.

AG: I think because we were taught in school that we have the greatest justice system in the world, we tend to judge the accused based on our belief that our system got it right. When I was going through the jury phase of my trial I remember potential jurors admitting that they felt I had to have done something or otherwise the system wouldn’t have me here. Why? Was it the color of my skin? I think it’s because we have been programmed through our education to believe in our judicial process blindly, “because we are a great country of law and order.” But now, with social media, the distrust has started to build toward

a system that continues to show its fallibility. The reality that the system has laws that protect prosecutors with immunity and laws that allow evidence to be suppressed plays a big role in wrongful convictions has now become both shocking and appalling to people who are having a better understanding of what leads to two different sides of the same story. So when a man is found to be innocent under those circumstances it becomes a compelling story. I remember how shocked I was when I was sitting in the courtroom hearing the prosecutor present to the jury a completely made-up story, and sitting there knowing that it was a total lie was disheartening. It changed my reality of what I thought our justice system stood for and was about. So when I hear of an innocent case my heart can only go out to that individual because I know exactly what he went through and the emotions he had to deal with. The disconnect (if you want to describe it that way) comes when the disillusion meets the reality of the two stories...and that makes it all the more compelling.

JP: I'm continually amazed that "public narratives" are not much better than the "legal" ones told in court. In "Trial by Fire," I remember one of the local witnesses saying it didn't matter if Willingham burned his children; he was a bad man for other reasons, and so he got what he deserved.

For one of our cases, the Amarillo newspaper ran a photograph of a SWAT team, padded in vests, ducking behind a bullet-proof shield and storming across a raised ladder to approach a second-story apartment where, the paper reported, the accused was armed and waiting for a bloody showdown with the police. Meanwhile, the accused was really across town at his cousin's house, calling his relatives to say goodbye and tell them that he loved them and was sorry for what he had done. The reporter knew the truth when he wrote the story because the accused had been arrested by then (the paper, in fact, ran a photograph of him cuffed and stashed in a squad car in the same article). But the picture of the SWAT team riled up the public, terrified everyone, and that horror story sells more papers.

In Texas, it's also the story most people want to believe—as evidenced by the online comments they post in response to the news story: "He murdered a mother of three! Kill the bastard!" When I get ready to write the life narrative of our client, I *start* with the newspapers (the public story) because they tell me everything

the legal team ought to be afraid of—every minute thing the public hates the defendant for, every detail reporters are feeding the public to fuel their hate—and I start writing against it. I look for a theme that addresses those fears but subverts them at the same time. A contest between competing narratives, for certain.

DRD: Innocence narratives are powerful because our ability to empathize is paltry. What I mean by that is this: if your typical middle-class white guy—e.g., me—hears a story about a poor black kid whose dad went to prison when he was still in his mother’s womb and whose mother was a crack addict who ignored her children so thoroughly they were left to fill their stomachs by eating peeling paint, and the kid ends up in a gang, because that’s the only family he had, and one thing leads to the next until one day he kills a clerk at a convenience store who reached for a weapon while he was robbing the place—if I hear a story about that kid, it is sad, of course, but it is like reading *Oliver Twist*. I cannot relate to it. On the other hand, if you tell me about a middle class white guy like me who gets railroaded by a corrupt prosecutor for murdering his wife, when he actually had nothing to do with it at all, and so that white guy gets snatched from his middle class house in his usually safe neighborhood and sent to death row and then executed—well, that story, I feel in my bones because I think it could be me. In other words, I think innocence narratives are powerful because our human imagination is, generally speaking, so infirm.

“I believe that empathy is the central mechanism of narrative storytelling—as audiences, we identify with the protagonist and go on their journey with them, and a narrative doesn’t “work” unless we put ourselves in the shoes of its protagonist...”

And the proof lies in this very roundtable. Anthony Graves is every bit as innocent as a man named Michael Morton, but the prosecutor who wrongfully sent Morton to prison went to jail while the prosecutor who fabricated the case against Anthony is still out there. Morton has a piece of legislation named after him. Anthony doesn’t. From my perspective, the difference between them is basically that Morton is a middle class white guy like me, and Anthony is a black guy from a struggling family in a small town. I do not intend this observation in any way to diminish the injustice Michael Morton endured, and his strength in surviving it. But the fact is, his plight received infinitely more attention than the plights of



Mark Moore (in the cell) clowns for the camera with night porter John Hayter, while day porter Emery Harvey sits in the barber chair and Andy Barefoot (in cell 3) watches television. © Bruce Jackson and Diane Christian.

Anthony, or the drifter named Randall Adams who was the subject of the film Zach alluded to, or pretty much any of the protagonists in *The Exonerated*. The innocence narrative undoubtedly erodes popular support for the death penalty, but understanding why it does forces us to confront our own regrettable limitations.

JB: David, I think your point about empathy is really a crucial one. I believe that empathy is the central mechanism of narrative storytelling—as audiences, we identify with the protagonist and go on their journey with them, and a narrative doesn’t “work” unless we put ourselves in the shoes of its protagonist and experience that emotional transference. In my field (theater, film, and TV) if you don’t have that experience as an audience member, you probably didn’t like the work. (I’d imagine that process of empathy and identification is even more crucial when it comes to legal narratives and jurors’ ability to identify with the people before them.)

Because *The Exonerated* is often categorized as “political theater,” we get a lot of questions about how we thought about politics in crafting the piece. The answer

is always the same: because empathy is the central mechanism of narrative theater, the politics are all in who you ask the audience to empathize with; i.e. who your protagonist is. We put a lot of thought into that question—and then once we make that choice, we get out of the way ideologically and just do our job as storytellers, which is to craft the narrative so that it takes the audience on the journey of that person (or in the case of *The Exonerated*, people).

We live in a media culture that encourages us to see entire groups of people as “other”—to actively not empathize with them. One of the things we are interested in as storytellers is putting the “other” in the position of protagonist and asking our audiences to empathize with folks with whom they are not normally encouraged to empathize. What’s amazing—and what gives me hope that our ability to empathize can actually be expanded—is that skillful storytelling can create an empathic process with individuals who had previously been placed firmly in the “other” category. We saw it over and over during the life of *The Exonerated*—while much of our audience was, of course, progressive and walked into the theater already sympathetic, we also had many audience members who were firmly pro-death penalty, who came in with the assumption that the people being represented on stage were as different from them as the poor black kid in David’s example. We watched, over and over, as those people’s assumptions were transformed through the process of experiencing the stories onstage.

I believe this empathic response is wired into us, and that in it there exists a vast untapped potential—we all have this response to good storytelling, it just all too often gets diverted into bad reality television, low-quality/high-budget movie franchises, or, alternatively, high-quality work that asks us to identify only with protagonists who are already privileged and powerful in the real world. The human imagination is vast, and the ability to empathize across all kinds of boundaries, experiences, and categories is there; we just live in a culture that too rarely asks us to stretch that ability outside very narrow categories.

ZM: What all of you are saying about individualizing and humanizing each case makes a lot of sense, and it reminds me of something you wrote, David, in *Executed on a Technicality*, about the Supreme Court’s 1976 decisions that led to the return of the death penalty:

The war was over. Abolitionists had lost. As a result, death penalty opponents, and particularly death penalty lawyers, had to shift their focus. Hundreds of little pictures replaced the big one. The war had been lost, but individual battles could still be won. Death penalty lawyers would not be able to empty death row in one fell swoop, but they might still prevail in individual cases.

I'm wondering the extent to which those who work on and write about death penalty cases have been pushed into a corner in which narrative—which is particularly good at specificity, empathy for individual characters, and the like—has had to become the de facto tool of trade. Which in turn makes me think of an interview you gave in 2012, Pamela, in which you said:

There are many innocence cases or potential innocence cases that I see which are very interesting from a legal perspective but aren't interesting from a narrative perspective. I can't write a story about every one of these cases, and so I have to find the ones that are compelling from both a legal standpoint and a narrative standpoint.

There seems to be more and more *storytelling* about the death penalty in recent decades. My first instinct is to think this is a wonderful thing that has the potential to widen the scope of public discussion, but the cynic in me wonders if this might not be because necessity has pushed the discussion in the direction of storytelling because other avenues have been closed off. I can't, for instance, imagine taking place today the public forum on capital punishment that Thucydides records in his *History of the Peloponnesian War*, which frames the debate in terms of larger national interests.

DRD: There's an old saying among appellate lawyers that when the law is on your side, argue the law; when it isn't, argue the facts.

The problem with narrative and storytelling in death penalty cases is not a problem at the trial level. In fact, the opposite is true. Trials are always about the particular, not the general, and they are won at the granular level, not at the level of grand theory. The reason the number of death sentences has plummeted so

dramatically over the past two decades is that trial lawyers began to acknowledge in the mid 1990s that the relevant story, the relevant narrative, in a death penalty case is unlike the narrative in any other type of criminal case, because it is all about the humanity of the bad guy. That was an idea trial lawyers were slow to accept, and that they finally did is probably a direct result of the influence of remarkably good storytellers (I am thinking here again about *The Thin Blue Line*).

But the problem for lawyers like me, who do most of our capital work at the appellate stage, is that appellate courts are inherently indifferent to narrative. They care about Big Ideas, and no matter how sympathetic the bad guy is, if the jury sends him to death row, he is almost

surely going to get executed. There is a very small exception to this observation, I think.

“They *want* to hear the whodunit story; it makes them feel safer.”

If the narrative is unusually powerful, really

and truly extraordinary, judges—because they are human beings—will be more inclined to find some principle under which they win. But this of course is exactly backwards. Courts are supposed to identify the principles first, not just once they have decided an inmate is sympathetic.

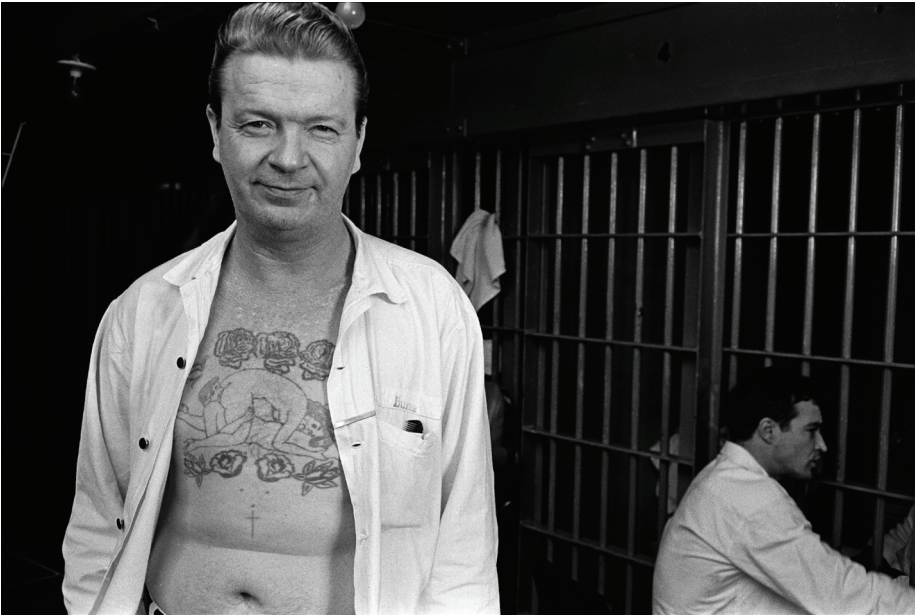
What all this means, perversely, is that narrative saves a few, but also makes it nearly impossible for all the others to prevail. I think it was Barry Scheck who said to me that Alan Dershowitz told him that the spate of DNA exonerations had made his (Dershowitz's) life as a trial lawyer easier, but his life as an appellate lawyer infinitely harder. I don't know for sure that Dershowitz actually said that, and I am not even positive it was Scheck who told me the story, but either way, it is exactly right. If juries are paralyzed with fear about the possibility of convicting an innocent person, you will get more acquittals; but if all we are interested in is making sure the innocent do not get convicted, then when someone does get convicted, the appellate court will not be interested in any principles so long as they are convinced the jury got the right answer. A version of exactly that problem operates in capital cases. In the long run, storytelling may yet be the reason the death penalty ends, but in the shorter term, the realizations of the storytellers are making it almost impossible for the appellate lawyers to win. And anyway, as Keynes reminded us, in the long run, we are all dead.

AG: You know, I always try to look for the hand that planted the seed to drive the narrative, and I'm reminded of a speech I once read that was written by an old plantation owner during the days of slavery. He would travel from plantation to plantation selling owners this kit on how to control their slaves. This kit was suppose to teach slave owners how to instill fear and distrust as a way to control their slaves; the salesman said that if you teach it to your kids and your grandkids then it will become self-propagating and the slaves would do it to themselves for at least another 3,000 years. That, to me, was the hand that planted the seed that still drives the narrative today.

These tactics have been practiced throughout our history for so long that too often attorneys find themselves spending more time in front of the jury trying to humanize their client as a defense, rather than defending them strongly against the charges. Attorneys either understand the history of the narrative consciously and made this strategy a de facto tool, or they know it subconsciously. When the jury is usually 98% white and 2% minority then attorneys are actually pushed into this position—whether they know it or not—of having to humanize their client, who usually doesn't look like the jury.

When do you remember a time in our history that the narrative was such that all men were treated fairly in our criminal justice system? The narrative isn't new. Attorneys have always had to battle against the narrative because the narrative has always been against those whom he too often find himself defending. I was trying to believe against all odds (eleven white jurors) that somehow the truth would win out over the narrative—because I was innocent—but the narrative in our criminal justice system is so ingrained that being innocent has never been enough. This also ties in to the disconnect between the legal narrative and the narrative on the street. Our opinion and the outcomes in our system have always been driven by the narrative of fear and distrust.

PC: I'm fascinated with what both David, as an attorney, and Anthony, as an exoneree, see as the fundamental problems of narrative. (David, I was particularly taken with your observation that "appellate courts are inherently indifferent to narrative." How true.) And Zachary, I understand your perspective that the specificity of death penalty narratives can obscure more meaningful and wide-



Donald Burns, the Death Row barber. To his right, Andy Barefoot, waiting for his cell door to open after a shower, talks with Mark Moore in cell 4. © Bruce Jackson and Diane Christian.

ranging discussions about the larger moral and societal issues at stake.

For what it's worth, though, I think that in the age of Twitter, Facebook, Instagram, texting, email, cable, TV on demand, the 24-hour news cycle, and so on, I need to do pretty much anything it takes to get a reader engaged in the subject at hand. And while the sort of public forum on capital punishment that Thucydides recorded might be ideal, the fact that a good narrative can persuade people to read eight thousand words on a death penalty case is no small feat these days.

I could write until I'm blue in the face about the racial inequities of the death penalty, or about the prevalence of tunnel vision and confirmation bias in police work, or about the dangers of withholding Brady evidence, or about the ineffectiveness of court appointed attorneys...but I don't think any of it would resonate as much as a single story, like my story on Anthony's case, which encompasses all of those issues but is grounded in the specificity of one man's life.

This has certainly proven to be true when it comes to the penalty phase of capital murder cases, too. Defense attorneys have learned how to employ this

specificity of detail. Now the punishment phases of capital murder trials are where the real battles are waged as attorneys try to mitigate, or essentially tell their clients' stories. How was a defendant raised? What made him turn violent? Why? Such details can mean the difference between life without parole and death.

JB: I tend to agree with Pamela, though I also acknowledge that, not being an attorney, I've spent much less time than anyone here in direct contact with the legal system; my experience with the subject is grounded in first-person conversations with exonerees and their families, and my familiarity with trials is limited to the transcripts and case files I've read. I'm not the best person to speak to the mechanics, dynamics, and details of the trial and appeals processes. What I can speak to is communication with the wider public, and in that area I think narrative is still crucial. Perhaps because our culture's governing narratives are grounded in the individual—or perhaps because of deeper and more cross-cultural processes (Joseph Campbell's "hero's journey" and the identificatory processes Campbell lays out, etc), it's usually narrative that moves us enough to (sometimes) change our socially conditioned perspectives. Anthony, what you have to say about the dominant narratives that are always already in place is so profound, and, I think, really spot-on. I'm interested in the ways that individual narratives are able to disrupt that dominant narrative—how one person's story, when told correctly, deeply and in a way that has an emotional impact, can pierce through the dominant narrative. Maybe I'm an idealist, but I believe that if that happens enough, it can erode the dominant narrative—and eventually maybe even transform it.

DRD: Don't get me wrong when I register a reservation about the use of narrative. I think it undoubtedly saves lives, and I agree with Pam and Jessica that it can be highly impactful. But I think there is a flip side to any narrative, a negative pregnant, so to speak, and that flip side is the implication that the subject of the narrative is special, or extraordinary, or even unique. And what follows from that implication is that all the other prisoners on death row are different from the subject of the narrative, and therefore, any sympathy or empathy generated by the narrative toward its subject is not appropriately extended to all the other (different)

prisoners. Overcoming that negative implication is a daunting challenge, perhaps an impossibly daunting one. I have no idea how to accomplish it.

JP: David is right. Narrative works best at the trial level, where jurors consider a specific case and are not asked to worry about the application of the death penalty in general. But, even in court, the story must overcome other narratives embedded in our thoughts over decades of practice—as Anthony suggests. The DA tells a whodunit story (here’s the proof that reveals the bad guy). The defense team tells a story about forgiveness and grace. The difficulty lies with the jurors, who are almost always white and middle- or working-class, and it’s easy for them to assume from day one of the trial that the defendant is guilty. Because he looks different from them, and because they have at least subconscious racist and classist biases, and because why would he be sitting in that chair if there wasn’t a preponderance of evidence against him.

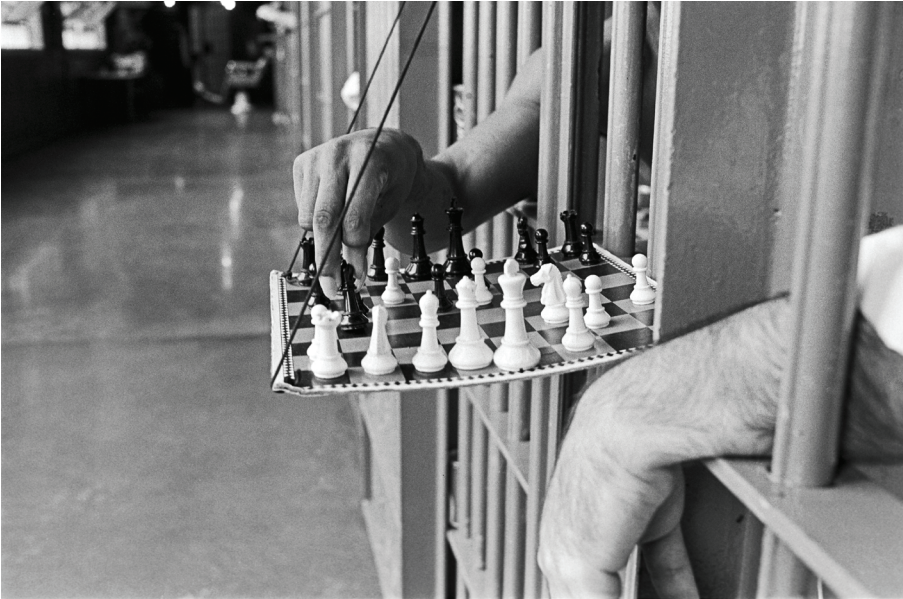
“One hundred percent of the reading or theater-going public will be horrified if you tell them a story about someone like Anthony Graves and, narratively speaking, it is a much easier story to tell.”

They *want* to hear the whodunit story; it makes them feel safer. They have difficulty understanding a narrative that asks them to forgive a person whom they do not want to understand. The defendant’s life of poverty and crime suggests he’s made bad choices or is bad himself. They don’t understand why anyone would fear the police (instead of trusting them), or why someone would show up “strapped” when claiming they arrived at the crime scene just to talk to the victim. They don’t understand the long-term ramifications on a child when a family loses electricity and plumbing frequently or moves every fourteen months to avoid rent due. And their imagination tells them that “abuse” means a beating here or there, something worse than a whupping, sure, but they simply cannot imagine the abuse our defendants have “survived”—which is horrific and truly unimaginable. If jurors allow themselves to imagine our defendant’s life, to feel empathy for it and for his actions, to see him as human with the same dreams and goals in life that they have, are they suggesting somehow that they themselves are capable of murder? In the end, narrative may work best during plea negotiations, before trial.

As for public discussion, critics of the death penalty (and death penalty attorneys) have started changing their overall narratives. It's become about what our communities really need. Andrea Lyons talks about a capital case she handled in Illinois where they argued that the money spent on trial could be used to buy the little town where the crime took place a new fire truck, which they badly needed but couldn't afford. That was the talking point the DA made when he granted a life plea instead of going to trial (and the county did buy the fire truck). Proposition 34 in California failed recently, but its supporters pitched it ironically as "Safe California"—that the money typically spent on the death penalty process would be pumped back into investigative funds to help police officers investigate "open" cases—rapes and murders that had never been solved because of lack of resources and manpower. It didn't work (this time), but I think that narrative (which subverts the one we've been fed about safety and deterrents), if told often enough, will start to speak to people who might not normally listen to typical public anti-death penalty rhetoric, which is frequently ineffective. As Pamela says, tell a *good* story, a smart one, just eight thousand words, and the more people who listen—well, that can't be a bad thing.

ZM: It's *how* to tell that "good story" that is supremely interesting to me, and I'm hoping all of you can pull back the curtain a little more on your craft and writing process. The sheer volume of material relating to any particular case, for instance, seems overwhelming. Jessica, you and Erik sifted through *twenty* such cases for *The Exonerated*. Beyond the empathic link you're looking to discover and build on that brings together the defendant with the jury, reader, audience, or judge, could all of you talk a little bit more about how you conduct your research, what you're looking to find in that research, and how you begin to craft a given death penalty narrative from all these disparate elements?

I'm specifically interested in what, for lack of a better term, I'll call the "redirection" of a given narrative to point to another possible perpetrator. It appears to be a common feature in death penalty narratives—*Thin Blue Line* obviously does it; your features, Pamela, on both Anthony's case and the Michael Morton case point in other directions; your book *Autobiography of an Execution*, David, suggests the possibility of a pseudonymously-named man, "Ruben," as the killer;



Clarence Jordan, cell 14, and Paul Rougeau, cell 15. Hands came out of adjoining cells to play dominoes on the run or chess on handmade boards suspended by string from the bars where the cells joined. Men would compete in dominoes or chess for years without ever seeing one another's faces as the moves were made or contemplated. © Bruce Jackson and Diane Christian.

other recent books that do it are the *Los Tocayos Carlos* issue of the *Columbia Human Rights Law Review* and Clive Stafford Smith's *The Injustice System*. It seems a triumph of the writing and research process and also a shrewd narrative tool, and I'm wondering where in the research process you become confident enough to strongly imply that someone else might be guilty and how you go about implying that in the right way.

DRD: Two very different kinds of narratives operate in death penalty cases, and they are so radically different from one another that even calling them both by the same name is misleading. One type of narrative you've identified as central in Pam's articles, Jessica's and Erik's play, and even my book, is a narrative that suggests the wrong person is (or was) on trial. Anthony's case, and Michael Morton's, are obviously in this category. Exploiting this type of narrative in a death penalty case—whether at trial, or on appeal, or even after execution, as sometimes happens—appeals not so much to our empathic capacity, or lack thereof, as to

plain old human guilt and regret. If a lawyer, or writer, or exoneree, can make jurors or judges think their actions might lead to the execution of an innocent man, the overwhelming guilt they confront gives them pause. As it should.

But as I said before, that narrative has extremely limited utility. In about 95% of death penalty cases, there really is not a serious question about guilt, only about punishment. In that context, the relevant narrative does not aim to rouse a juror's sense of guilt, but rather a human being's sense of empathy, by seeking to humanize the wrongdoer. Jill is the master of that form of narrative, and it differs from the former strategy because it focuses on the bad guy, rather than on someone not even in the courtroom.

Popular media focuses on the former type of narrative because it's easier. One hundred percent of the reading or theater-going public will be horrified if you tell them a story about someone like Anthony Graves and, narratively speaking, it is a much easier story to tell. No matter how good a storyteller you are—even if you're Ernest Gaines writing *A Lesson Before Dying*, which is pretty much as good as it gets as narrative—you will not reach nearly the same number of people when you are trying to humanize a murderer. What this all means as a matter of legal strategy is that if there is any chance at all of constructing an innocence narrative, that is what the lawyer will do, because the success rate is always higher than with a so-called mitigation narrative. In fact, as a purely strategic matter, a thin innocence narrative is almost always a wiser litigation choice than a thicker mitigation narrative.

So, for example, in the case I discuss in my book, I really and truly believe that Henry Quaker should not have been executed even if he was the murderer, but that angle was a losing strategy. So I chose a different course. Now, as I think my book makes pretty clear, although I don't think Quaker committed the murders, I don't really know for sure. We rarely do. And because there was another guy who was a plausible bad guy, then for me, as a strategist, that was enough.

There is an insidious dynamism at work here, because the strength of innocence narratives makes all other narratives less powerful. Or, put somewhat differently, the more gobsmacking Pam's and Jessica's narratives are, the harder Jill's job becomes at the trial level, and the more impossible my job becomes at the appellate stage.

PC: I couldn't agree with you more, David. This passage particularly struck a chord with me: "There is an insidious dynamism at work here, because the strength of innocence narratives makes all other narratives less powerful." Indeed, I have seen this play out in my own work. While my stories on Anthony and Michael Morton and Hannah Overton have gotten accolades, I have written a number of stories over the years—mitigation narratives, to use David's phrasing—that were not received as well.

Years ago, I wrote a lengthy piece about a death row inmate named Napoleon Beazley. Napoleon was seventeen years old when he killed a man in a car-jacking. He was an extremely promising young man who had made a terrible, terrible mistake. He was on the honor roll, was a tremendously talented athlete, and had transcended the entrenched racial boundaries of the tiny East Texas town where he grew up. But he had also fallen in with the wrong group of kids, and in an effort to prove himself, he had made a terrible, tragic mistake. I wrote an 8,000-word story that sought to humanize Napoleon—that is, to explain who he was to readers and to provide some context for his actions. After reading it, I thought that very few people—even here in Texas—would feel that death was the appropriate punishment for him. But the article did not create the kind of groundswell that my story on Anthony did, and it did not spark a larger conversation about the efficacy of executing people who committed their crimes as juveniles. Napoleon was executed a year after my story came out. (This was before the Supreme Court banned the execution of juveniles.) It was a devastating experience and it took a long time to return to mitigation narratives. (I'm working on one right now.) I hope that more writers take on these kinds of stories, as hard as they are.

"It seems like it's taboo for attorneys to narrate the history of our biases resulting in wrong judgments and wrongful convictions."

As for research: I read everything I can get my hands on—the case file, trial transcripts, police reports, etc. Then I try to track down as many of the people who were involved in the original case and trial (investigators, jurors, friends and relatives of the victim and defendant, etc). That is a laborious process, and often it's hard to get people to agree to talk. But after a few months of really learning



Ignacio Cuevas. Put to death, May 23, 1991. Cuevas spent his time on the Row doing colored-pencil drawings of animals, saints, and Jesus. One day, Bruce went by his cell, and several of the drawings were arrayed on the bunk. "Take my picture with my drawings," Cuevas said. "Okay," Bruce said. © Bruce Jackson and Diane Christian.

the documents in a case and interviewing people, I usually feel like I know the case pretty well. The key for me is when I stop gleaning a lot of new information during interviews, because I know the material, or when sources begin to ask me questions. That said—going back to your question—I have never had to imply that someone else was guilty without lawyers having already made a very persuasive case already. In the Morton case, for example, there was DNA evidence that pointed to another perpetrator, and in Anthony's case, the person who committed the crime was convicted and executed. Law enforcement was certain that he'd had an accomplice and pressured him after twelve hours in police custody to name an accomplice, hence the reason that he named Anthony.

AG: David, I wholeheartedly agree with you. However, as the guy who got a chance to see two narratives of the same case from the cheap seats, once I was convicted, I knew the mitigation narrative wasn't going to have an impact, which is why I initially

refused to let my family testify on my behalf during penalty phases. Everything in me screamed that it wouldn't make a difference and I was right, because who has empathy for "the murderer?" I can tell you from my personal experience of being that person they were talking about: it doesn't matter what the narrative is, because if the narrative doesn't start focusing more on challenging and educating jurors then the narrative will continue to be just another entertaining story in the court room. I've looked back on my own experience and have come to the conclusion that had I been my own attorney, the narrative would have been one that took the jury on a journey that exposed the elephant in the court room—their personal biases. It seems like it's taboo for attorneys to narrate the history of our biases resulting in wrong judgments and wrongful convictions. There's an education component to the narrative that's missing, and that is the narrative to challenge them to want to be the best twelve people to judge the facts of the case. I have come to believe that the narrative should move toward educating a jury of twelve, who don't practice law, about the responsibility they have to make sure that our system of justice works fairly. Jurors are usually the least informed, among those in the decision making process, about procedure and the law, yet have the most important job. You often time hear jurors come forward after the fact, to say that they had no idea about the process. And then you have twelve people with their own biases.

So to me, it seems that a smart trial attorney would learn to craft his narrative in a way that not only tells the story, but better informs the most important people in the court room—the jury. The narrative that tries to humanize someone that twelve people usually have no connection with has never really been that effective, because you can't change a lifetime of biases in a six-week period. It's not going to happen.

JP: Anthony raises a really good point—one that I learned the hard way when teaching Richard Wright's *Native Son* in my first Honors College course as a professor at Texas Tech. The first day of discussion, we talked about the censorship that Wright faced, the controversial (sexually graphic) theater scene, and that terrifying rat that opens the book—all topics I stupidly thought would help the students engage with the book because sex and censorship "sells," so to speak, with this age group. But at the end of the hour, a kid in the back row raised his hand and asked, "Why aren't we talking about the fact that Bigger is mentally retarded? Is

that politically incorrect?” Well, hell. I hadn’t taught Bigger’s story at all...because, of course, he isn’t mentally retarded. Not one iota. But my students—all white, privileged, and somewhat nerdy—couldn’t relate to Bigger’s life or why he would be so afraid of white culture that he smothers and then chops up the body of a white woman to save himself. I hadn’t made them understand why the first section of the book is, in fact, called “Fear.”

I keep this story in mind when writing mitigation narratives—which are complicated by all kinds of factors. For one, just like Anthony said, he didn’t want his family to testify on his behalf at his trial, and the defendants I help represent don’t either. Now, I don’t know Anthony’s family, so I am in no way speaking about

his family here. Our clients have usually suffered severe abuse, but still, they love their families as much as I love mine, and they don’t want to expose family secrets. It takes months, even a couple of years in some cases, folding laundry with grandma,

“Sometimes, I write backward, from the crime scene to the childhood event that is always more climactic than the murder and is where the story began.”

and driving nieces to Sonic for some ice cream, and sharing meals with other family members, to get them to realize we’re not trying to “expose” the family but rather save one of their lives.

So part of the craft of writing mitigation narratives is to come at it from this angle: this story happens in a neighborhood so very foreign to the jurors’ and the DA’s, and I have to tell the story in a way that exposes the listener’s biases as much as it does the family secrets—otherwise, Anthony is right, the listener will not respect it.

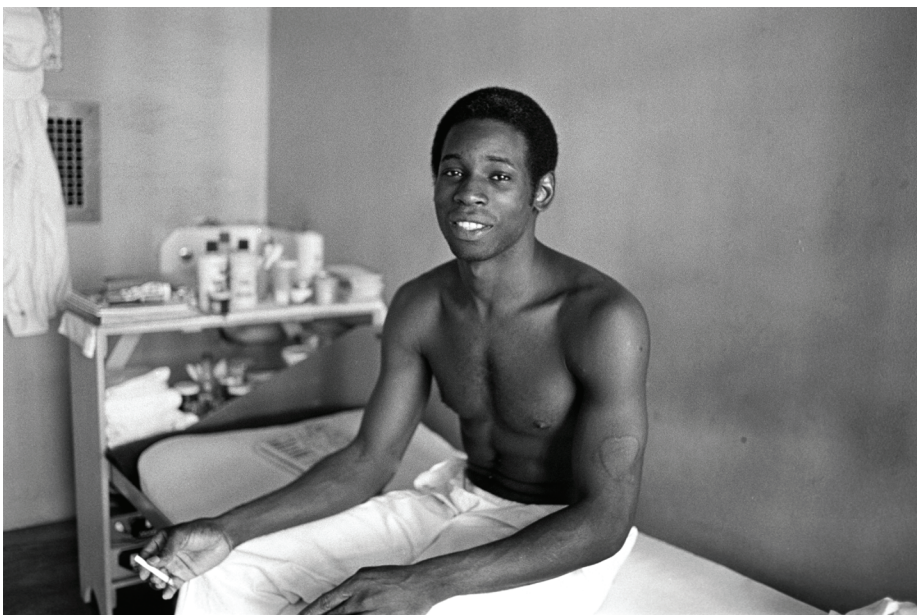
Then, like Pamela, I read through hundreds of documents: criminal records, education records, medical records (because most of our defendants have been in mental hospitals or have suffered repeated injuries), old trial transcripts, every memo the mitigators write (especially when I can’t get into the field with them), every newspaper article, and, finally, the crime scene photos and reports. I’m not looking for “how” or “proof” when I’m doing research. I’m looking for “why.”

By the time I hit the crime scene photos, I have a pretty good idea of the “nexus,” which is something defense attorneys were originally legally required to produce but don’t discuss much any more for various reasons. “Cause and effect” is the meat

of any story, and a writer can't help but see it. For example, one of our clients—we'll call him Vince—was taken to an orphanage on his birthday and abandoned because his family didn't own a car, couldn't drive him to school, but also couldn't afford truant officers coming around their house because of their illegal activities. His other siblings—all younger—got to stay home when they took him to his "birthday party" at the orphanage and left. Every crime he was involved in—from his first robbery to his first murder to the eventual capital charge—involved his attempts to gain access to a vehicle, to drive somewhere and start a new, better, safer life. Usually, when I look at the crime scene photos, I can spot a trigger or two. Always, something about the "nexus" is in those photos. In Vince's case, the victim was his co-defendant's grandfather (and it was Vince's granddad who decided to dump him at the orphanage), and after the murder, when they had the granddad's car keys and could have left, his co-defendant did, but Vince sat on the couch and just waited and waited and waited for someone to come and retrieve him.

Sometimes, when I write the mitigation story, I start with the defendant's childhood and create a traditional chronological tale; sometimes, I write backward, from the crime scene to the childhood event that is always more climactic than the murder and is where the story began.

JB: When Erik and I are doing documentary theater work, we begin by giving ourselves some parameters around who exactly we'll be interviewing. Our interviews are wide-ranging and cover a lot of topics that journalists might not ask about. We are interested in people's deep humanity, and stories from their lives that seem totally unconnected to the story we're ostensibly focused on can often be incredibly illuminating. We then transcribe the interviews, word for word, doing no "cleanup," leaving all the *um*'s and repetitions and sentence fragments intact—the eccentricities of people's language can be incredibly illuminating and revealing, sometimes even moving. Then we bring the raw transcripts into the rehearsal room. We are actors first and foremost, so our writing process involves actors quite directly—we have actors read the transcripts out loud, and we edit by ear; both of us can immediately hear what material is theatrically compelling, and it's often quite different than what we would have guessed from our experiences in the interviews themselves. We bring these edits home, enter them into the computer,



John Fearance. Put to death, June 20, 1995. The book by his right arm is *The Random House Guide to Basic Writing*. He hadn't gone past the eighth grade and said he had to learn to write if he was going to be able to work on his case. © Bruce Jackson and Diane Christian.

and head back into the room with actors the next day to hear and edit the condensed version; we repeat this process several times until monologues begin to organically emerge and the deeper themes (and connections between different stories) begin to reveal themselves. Once we have monologues, we go through a similar process having actors read those, experimenting with different juxtapositions of individual monologues, allowing them to contextualize each other and listening to the larger story that makes. Along the way, we are also usually narrowing down the number of stories we will include in the final piece—we've found that the maximum a ninety-minute play can hold, while still allowing the audience to follow and relate to each story, is about six or seven stories. Narrowing down the stories is always the hardest part of creating a piece like this; every single person we've met, for every single documentary work we've made, is incredibly compelling, and all of their stories are worth telling. But the form can only hold so many stories at a time, so what we're looking for are individual stories that each illuminate a different aspect of the larger story—both on the “issue” level and on a more character-based level.

With *The Exonerated*, we then went back and went through the case files and court transcripts of all the individuals whose stories are in the play, and went through a similar “workshop” process with that material, to weave it into the script around the fenceposts of the monologues. We experiment with different juxtapositions, edits, etc. until we’ve crafted a work that takes us (and the actors in the room) on a clear journey, narratively and emotionally, using all the traditional tools at a storyteller’s disposal—tension, conflict, repetition, etc. We’re influenced by all the great storytellers, from Shakespeare to David Simon, but in this documentary work we also always particularly think of the Greeks; many of our pieces (including *The Exonerated*) contain a sort of Chorus figure, and we refer to the structural elements of Greek tragedy in our thinking as we work.

As far as the question about the “redirection” narrative and its use in death penalty cases, we followed that narrative thread when it was a central part of the individual’s story, when there was someone else who looked very powerfully to many like the actual killer, particularly when that argument was a centerpiece of the appeals. But we focused on those alternate perpetrators only when it served the larger stories of the exonerees themselves in the context of the play—in other words, our main narrative strategy (or goal) was not to point a finger at someone else, our main narrative goal was to tell six people’s stories. I can see why these redirection narratives might be powerful tools in court, or in an article or documentary that is focused on proving innocence (or raising questions) in a single case—I think audiences (including juries) are often more likely to accept the idea that the system got the wrong person if they have some idea of who the “right” person might be. I think this has to do with a desire for answers that is hardwired into us as a response to anxiety and fear; i.e. it’s scarier to not know who did something horrifying than it is to think that the system initially got the wrong person, but we still ultimately know who did that horrifying thing and can thus protect ourselves.

ZM: To close, I’m wondering where you all think the story of the death penalty in America is headed and the role narrative might play in that future. Are there ways in which narrative is not being used to its full potential to create dialogue about the death penalty?

AG: I am an optimistic person and therefore believe that we are always an evolving society as we move forward in life. I truly believe that the death penalty will be abolished in the future. We are already seeing a big decline in its use

“It’s interesting to think of the death penalty—like same-sex marriage—as a regional issue, not a national one.”

in the last three years, and that’s because wrongful convictions are being highlighted more in the news and it’s starting to weigh in on our country’s conscience.

As we continue to see more and more cases of wrongful convictions, DNA exonerations, etc, the narrative will create itself, and it will be about the mistakes we now know we make with the death penalty. But for now it’s still being crafted by the narrators.

However, the narrative has not been effective up to this point because the narrators have yet to figure out how to create the right narrative to make it a hot button issue. The narrative has always been biased in our imagination: the typical image of a poor, uneducated minority. The narrative has to be crafted in a way that includes white America’s children, because part of the disconnect is that white America has no image of their children being put on death row, even when the reality is that white America’s children are also being sentenced to death in this country. America needs to not only hear it, and see it, but feel it as well, and then the narrative will begin to change and the discussion will increase. Until then I’ll continue to crisscross the country sharing my story to inspire, educate, and encourage others to get involved.

PC: As for the future of the death penalty, I was heartened today when I read that 2%—just 2%!—of counties in the entire United States were responsible for the death sentences that were handed down in 2013. (This is according to a new report by the Death Penalty Information Center.) Interestingly, of the 39 executions that took place in 2013, more than half occurred in Texas and in Florida.

Death sentences remain near record lows, more and more states are repealing capital punishment, and public support for the death penalty is at a forty-year low. Just to give a sense of how much things have changed, consider this: for the

sixth year in a row, Texas had less than ten death sentences. (Texas meted out 48 death sentences in 1999.)

My guess is that public support for the death penalty has fallen along with a heightened awareness—brought about by the advent of DNA testing—that innocent people actually can be convicted and sentenced to death. So I think both DNA testing and narratives about people exonerated by such testing have been instrumental in helping to change public perceptions about capital punishment.

But what role will narrative have from here on out? I'd like to know more about what is happening in those two percent of U.S. counties that are handing down death sentences. Maybe the answer lies, in part, in drilling down into that data so as to better understand why those particular counties are deviating from the remaining 98 percent of U.S. counties, and to write about those counties in particular.

It's interesting to think of the death penalty—like same-sex marriage—as a regional issue, not a national one. But perhaps that should help guide our narrative-writing in the future.

DRD: Narrative matters a lot as a legal strategy, but it hardly matters at all as a political strategy. That has nothing to do with narrative, however. It has to do with the fact that the death penalty is so far down on the list of political issues that it might as well not be on the list at all. Hardly anybody makes a decision about whom to vote for based on that candidate's view on capital punishment. The death penalty could not matter more to the people whose lives it touches, but it could hardly matter less to just about everyone else. So it does not matter how powerful the narrative is, because so few people pay attention to it.

And yet, narrative will play a central role—it is already playing that role—in the demise of the death penalty, because what is causing the death penalty to wither away is a complex dynamic that has narrative at its center. What happens is this: people read an article by Pam, or they see a play by Jessica, or they go to an event and hear Anthony tell his story. And those people talk to their friends. And then one day, they, or maybe one of their friends, end up on a capital jury. They are not against the death penalty, or they would never make it onto the jury. But someone's narrative has burrowed down into their unconscious brain, just waiting for an opportunity to matter. And this person, now a juror, sees a defendant who has Jill on the trial team,

developing a narrative that will be what the lawyers use to try to save this client's life. And it all comes together, and the jury spares the bad guy from execution.

Now you think that is just one case, and it is just one case, but it has a big impact on the prosecutor, because the county has just spent half a million dollars or more, maybe four times that amount in a really complex case, pursuing a death sentence they did not get. The DA could have accepted a plea a week after the defendant was arrested, and the defendant would have agreed to life in prison in exchange for taking death off the table, and that would have cost the county twenty grand or less. Instead, the county went to trial, spent twenty or fifty times what it could have spent, and it got the exact same result.

A poor county will make this bad bet only once. A rich county might make it two or three times, but eventually, even the wealthy counties realize that society is just as safe without the death penalty as it is with it, and so they might as well spend more money fixing the schools and repairing the streets than pursuing death sentences that have been revealed both as unnecessary and as bad fiscal bets.

What all this means, from my point of view, is that it does not make a whole lot of sense to use narrative, fiction or nonfiction, to try to create a Big Moral Conversation about the death penalty. It's a conversation that, (a) will never happen, and (b) would not turn out the way I would want it to were it ever to occur in the first place. Narrative should be seen as something that operates at the granular level, such that its effects are nearly invisible to the naked eye. But in five years, or ten, or twenty at the absolute outside, at the time when the death penalty is something that historians but no lawyers care about, the writers of the narratives will finally get their due.

JB: I think David really nails it in his analysis of how narrative can create social change. I totally agree that the process takes place at the "granular" level, working its way up from the individual level into larger systems. I am of the belief that truly lasting social change—external changes that come from changes in our core beliefs as a society—usually originates at the individual level, and that as these individual changes accumulate they affect others and add up until they eventually start affecting systems. This is why I'm a big believer in the power of narrative to affect social change. It never (or rarely) happens in a sweeping, sudden way, but instead

takes place over time, through the accumulation of individual transformations and their impact on systems—and on future generations.

JP: I've no doubt our individual stories will continue to address injustice and how she's disbursed to a particular group of people more readily than others. We'll touch a district attorney or two, a judge, an appellate court, a jury, even the family members of some victims. We'll love some of our clients in ways they've never been loved and, for some of them, it will change who they are. It will certainly continue to change who I am.

But David and Jessica are right. Storytelling will not spark a moral conversation about the death penalty at large. Too few people are affected by it; too many people trust that they know how the death penalty works and what it accomplishes. I also believe that David is right about the conclusion of the overall death penalty narrative: it will turn on economics—how taxpayer money could be better spent to improve society, how capital trials bleed county funds and yield nothing more than what plea negotiations could have managed years, even decades, before. I'm glad that, one by one, our stories will play a role in the slow chipping away at the “value” of the death penalty, but I am also saddened that the story we finish telling may ultimately be about money but not about poverty, or about societal improvements but not about eradicating racial prejudice in our criminal justice system or ending the cycle of domestic violence. Of course, eternal optimist that I am, I still hope that, afterward, when we funnel all those salvaged funds into schools, childcare, education, literacy, etc., instead of spending it on vengeance, maybe we'll get the same results as if we had held a better conversation and held it years, even decades, before. We'll transform the world we live in to such a degree that it doesn't matter how we got there, how we said *The End*.

Mariola V. Alvarez is currently an Andrew W. Mellon Postdoctoral Fellow at Rice University. She completed her doctorate in the History, Theory and Criticism of Art from the University of California, San Diego (UCSD) in June 2012. Her first book project, “Neoconcretism and Brazilian Modernism, 1954-1964,” takes an interdisciplinary approach to the analysis of the art and poetry of the Brazilian Neoconcrete group. She published the article “The Anti-Dictionary: Ferreira Gullar’s Non-Object Poems” in the peer-reviewed journal *Nonsite*. The article forms part of the book’s second chapter, which proposes a definition of Neoconcrete poetry as the production of word poems that moved beyond the traditional page into art books, interactive sculpture poems, and environmental installations. Alvarez has also presented her work on modern and contemporary Latin American art at national and international conferences.

Christopher Bakken is the author of a memoir *Honey, Olives, Octopus: Adventures at the Greek Table*, as well as two books of poetry, *Goat Funeral*, and *After Greece*. He is also co-translator of *The Lions’ Gate: Selected Poems of Titos Patrikios*.

John R. Beardsley divides his time between Evansville, Indiana, where he teaches Composition at the University of Southern Indiana, and Tallahassee, Florida, where he is pursuing a doctorate in Creative Writing at Florida State University. His poems have recently appeared or are forthcoming in *The Journal*, *Third Coast*, *CutBank*, *American Literary Review*, and *Makeout Creek*.

Jeanne Marie Beaumont is the author of *Burning of the Three Fires* (BOA Editions 2010), *Curious Conduct* (BOA 2004), and *Placebo Effects* (Norton 1997). New work has recently appeared or is forthcoming in *Harvard Review*, *Ploughshares*, *Cave Wall*, *Southwest Review*, and *The Warwick Review* (U.K.). She teaches at the 92nd Street Y, and is also on the faculty of the Stonecoast MFA Program.

Sierra Bellows worked as a documentary filmmaker in South Eastern Africa, produced short films in Canada, and taught writing in Virginia. Her work has appeared in *The American Scholar*, *The New York Times*, and *The Greensboro Review*, among other publications. She was a Henry Hoyns Fellow at the University of Virginia, where she received her MFA in fiction. She lives in Missoula, Montana.

Margo Berdeshevsky’s latest poetry collection is *Between Soul and Stone* (Sheep Meadow Press 2011). *But a Passage in Wilderness* was also published by Sheep Meadow Press in 2007. Her book of short stories, *Beautiful Soon Enough*, was illustrated with her own photo-montages and it received Fiction Collective Two’s American Book Review/Ronald Sukenick/ Innovative Fiction Award (Published by University of Alabama Press.) Her works have appeared in journals including *Kenyon Review*, *Poetry International*, *Pleiades*, *New Letters*, *The Southern Review*, *Poetry Review* (UK), *Siècle 21*, and *Confluences Poétiques*. Her *Tsunami Notebook* of documentary photographs and poems was made following a journey to Sumatra in Spring 2005. Her multi-genre novel, *Vagrant*, is forthcoming from Jaded Ibis Press. Exhibits of her photographs and “visual koans” have been seen in galleries in the US and Europe.

Legier Biederman is a Los Angeles based curator and art historian. She received her PhD in art history from the University of California, Los Angeles in 2010. Her research on contemporary art and global art biennials focuses on issues of identity, representation, and urban development.

She teaches contemporary and modern art, as well as curatorial studies at Loyola Marymount University. Biederman, in collaboration with her curatorial students, recently curated *Generation Y Not* (August, 2013) at the Thomas P. Kelly Art Gallery at LMU. She is currently working with Franklin Sirmans on the third edition of *Prospect New Orleans*, the global art biennial established after Hurricane Katrina.

Malachi Black is the author of *Storm Toward Morning*, forthcoming in 2014 from Copper Canyon Press, and two limited edition chapbooks: *Quarantine* (Argos Books 2012) and *Echolocation* (Float Press 2010). His poems have recently appeared or are forthcoming in journals including *AGNI*, *Boston Review*, *Ploughshares*, and *Southwest Review*, among others, and in several recent and forthcoming anthologies, including *Before the Door of God: An Anthology of Devotional Poetry* (Yale UP 2013) and *Discoveries: New Writing from The Iowa Review* (2012). The current Creative Writing Fellow in Poetry at Emory University, Black has also received fellowships and awards from the Bread Loaf and Sewanee Writers' Conferences, the Corporation of Yaddo, the Fine Arts Work Center in Provincetown, The MacDowell Colony, the Poetry Foundation, UT-Austin's Michener Center for Writers, and the University of Utah.

Jessica Blank is a writer, actor, and director. With her husband Erik Jensen, she is author of *The Exonerated*, which won Lucille Lortel, Outer Critics Circle, Drama Desk, Ovation, Fringe First and Herald Angel Awards, as well as awards from Amnesty International, the American Bar Association, the National Association of Criminal Defense Lawyers, Death Penalty Focus, and Court TV. It was made into an award-winning movie for Court TV adapted by Jessica and Erik and starring Susan Sarandon, Danny Glover, Brian Dennehy, Aidan Quinn and Delroy Lindo. *Living Justice*, Jessica and Erik's book on the making of *The Exonerated*, was published in 2005 by Simon and Schuster. Their documentary play, *Aftermath*, based on interviews they conducted with Iraqi civilian refugees in Jordan and directed by Jessica, opened New York Theater Workshop's 2009-10 Off-Broadway season to rave reviews, was a New York Times Critics' Pick and was nominated for two Drama League Awards.

Will Boast was born in England and grew up in Ireland and Wisconsin. His story collection, *Power Ballads*, won the 2011 Iowa Short Fiction Award and was a finalist for a California Book Award. His fiction and essays have appeared or are forthcoming in *Best New American Voices*, *Virginia Quarterly Review*, *Narrative*, *Glimmer Train*, *The American Scholar*, and *The New York Times*, among other publications. He's been a Stegner Fellow in fiction at Stanford University and a Charles Pick Fellow at the University of East Anglia in the UK. His memoir, *The Pantomime Horse*, is forthcoming from W.W. Norton Co/Liveright and Granta Books.

Conor Bracken has worked as an ESL tutor, Domino's delivery guy, avionics software tester, and food truck fry cook. He comes to Houston from Virginia, whose monuments and seasons he misses.

Julia Brown is currently pursuing an MFA in fiction at the University of Houston. She serves as Fiction Editor of *Gulf Coast*, and is the recipient of a 2013 Kimbilio Fellowship. She is also a singer-songwriter and guitarist who has independently released two albums and played shows all over the East Coast.

Stephen Burt is Professor of English at Harvard and the author of several books of poetry and criticism, including *Belmont* (2013), *The Art of the Sonnet*, with David Mikics (2010), and *Close Calls with Nonsense* (2009). For more about Stephen's work, try www.closecallswithnonsense.com.

Alan Stewart Carl is a Texas writer of fiction and essays. His work has appeared in *Mid-American Review*, *Hayden's Ferry Review*, *The Collagist*, *Pank*, and elsewhere. He is a work-at-home father who is still learning the art of balancing fatherhood and writing. He can be found in San Antonio. Online, he's at AlanStewartCarl.com.

Lawrence Coates has published work in *The Missouri Review*, *Greensboro Review*, *The Berkeley Fiction Review*, and elsewhere. His first novel, *The Blossom Festival*, won the Western States Book Award for Fiction and was selected for the Barnes and Noble Discover Great New Writers Program. His second novel, *The Master of Monterey*, was published in 2003. His third novel, *The Garden of the World*, was published in February of 2012 and won the 2013 Nancy Dasher Award in Creative Writing. He is a recipient of a National Endowment for the Arts Fellowship in Fiction, and he teaches Creative Writing at Bowling Green State University.

Pamela Colloff is an executive editor at *Texas Monthly*. Colloff has reported extensively on the wrongfully convicted, and her work was credited with helping former Texas death row inmate Anthony Graves win his freedom. In 2013, she won a National Magazine Award for "The Innocent Man," a two-part series about DNA exoneree Michael Morton. In February of 2014, the Nieman Foundation for Journalism at Harvard awarded her its Louis Lyons Award for Conscience and Integrity in Journalism.

Katie Condon was born in Connecticut. Her poems have appeared in or are forthcoming from *Heavy Feather Review*, *LEVELER*, *Two Serious Ladies*, and elsewhere. Katie traveled to Italy as a participant in the Bread Loaf Writer's Conference.

Rachel Cook is a curator and writer. Her recent curatorial projects include *SonicWorks* (DiverseWorks, Houston), *The Eleventh Hour* (DiverseWorks, Houston), *Undetectable* (Visual AIDS, La Mama Galleria, New York), *Not-Not-Not Images-Objects* (Meulensteen Gallery, New York), and *Three Evidentiary Claims* (CCS Bard, Annandale-on-Hudson). She has previously worked for dOCUMENTA (13)'s publication team, and as a fellow for the International Studio & Curatorial Program in New York. She has written for a number of art journals and publications including *Modern Painters*, *Flash Art*, *Art Lies*, and *...might be good*, among others. Cook holds a MA from the Center for Curatorial Studies at Bard College and a BFA from the San Francisco Art Institute. Currently she is the Associate Curator at DiverseWorks in Houston.

Lisa Fay Coutley's poems have been awarded a fellowship from the National Endowment for the Arts, scholarships to the Bread Loaf and Sewanee Writers' Conferences, an Academy of American Poets Levis Prize, and have appeared recently or are forthcoming in *Crazyhorse*, *Ninth Letter*, *Sou'wester*, *Seneca Review*, and *Drunken Boat*. She is a PhD candidate at the University of Utah and the author of *In the Carnival of Breathing* (Black Lawrence Press 2011), winner of the Black River Chapbook Competition.

Carolyn Creedon is a writer, editor, and fifteen-year veteran of the waitress wars. She completed the Ada Comstock program at Smith College, went on to earn an MA, then to UVA where she earned an MFA and was the recipient of the Academy of American Poets Prize. Her poems have been published in the *Massachusetts Review*, *American Poetry Review*, *Best New Poets*, *Best of the Best American Poets*, *Ploughshares*, *Yale Review*, *Rattle*, and other journals. In 2010 she won the Alehouse Happy Hour Poetry Prize. Her book *Wet* was selected as the Stan and Tom Wick Poetry Prize sponsored by the Wick Poetry Center and published in 2012 by Kent State University Press. She lives in Charlottesville with her husband and her dog.

John D'Agata is the author of a few books of nonfiction, including *About a Mountain* and *Halls of Fame*, and the editor of *The Lost Origins of the Essay* and *The Next American Essay*. He teaches creative writing at the University of Iowa, where he is the director of the Nonfiction Writing Program.

Adam O. Davis' poetry has appeared in many journals, including *Barrow Street*, *Boston Review*, *Denver Quarterly*, *The Paris Review*, and *ZYZZYVA*. He currently lives in San Diego, where he teaches English at The Bishop's School. He can be found online at www.adamodavis.com.

Timothy Denevi's first book, *Hyper*, will be published by Simon & Schuster in September. He received his MFA in nonfiction from the University of Iowa. Recently he's been awarded fellowships by The MacDowell Colony and the Virginia Center for the Creative Arts, and his writing has appeared in the magazines *Arts & Letters*, *Hobart*, and *Hawaii Review*, among others. He currently teaches nonfiction in the MFA program at George Mason University, where he's a visiting writer.

David R. Dow teaches at both Rice University and the University of Houston Law Center, where he also runs the Texas Innocence Network and a death penalty clinic. His team at UH has represented more than 110 death row inmates at all stages of their state and federal appeals. The author of six books and scores of scholarly papers, Dow's work also regularly appears in such popular outlets as *The New York Times*, *The Washington Post*, *The Nation*, *The Huffington Post*, *The Daily Beast*, and many others. Dow's memoir, *The Autobiography of an Execution*, was the winner of the Barnes and Noble Discover Award for nonfiction and a finalist for the National Book Critics Circle Award. His most recent book, *Things I've Learned from Dying*, was published in January by Twelve.

Fallen Fruit is the Los Angeles-based collaborative team of David Burns and Austin Young, whose various projects use fruit to examine distinct places and histories, highlight issues of representation and ownership, and address questions of public versus private space. Originally conceived by Burns and Young with Matias Viegner, Fallen Fruit began in 2004 by mapping fruit trees growing on or over public property in Los Angeles. The collaboration expanded to include serialized public projects, site-specific installations and happenings in various cities around the world. From participatory performances such as Public Fruit Jams and Fruit Meditations, to ongoing indexical work such as Public Fruit Maps and curated exhibitions that reorganize the social and historical complexities of museums and archives by re-installing their collections through syntactical relationships of fruit as subject, Burns and Young deploy fruit as a lens through which to see the world.

Anthony Graves is known by most as death row exoneree 138. But he is known by those close to him as a loving son, brother, father, and friend taken away from them at a young age. Anthony

lost eighteen years of his life when he was wrongly convicted of a brutal crime and incarcerated in Texas prisons, twelve of those years on death row, sixteen in solitary confinement. Today, four years after his release, Anthony is an accomplished motivational speaker, community advocate, film producer, and consultant and presenter at CLE workshops on ethics. He also serves on the Board of The Texas Coalition to Abolish the Death Penalty, was the co-host of The Prison Show weekly on 90.1 FM, has launched The Anthony Graves Foundation to inspire at-risk youth to dream and believe, has started the nonprofit Humane Investigation Project, and tours around the world sharing his story.

Richie Hofmann is the recipient of a 2012 Ruth Lilly Poetry Fellowship. His poems appear or are forthcoming in *Ploughshares*, *New England Review*, *The New Republic*, *Yale Review*, *Poetry*, and *The New Yorker*, among others. He has received, most recently, the John Ciardi Scholarship in Poetry from the Bread Loaf Writers' Conference and the Peter Taylor Fellowship in Poetry from the Kenyon Review Writers Workshop. He is currently finishing his MFA in poetry at Johns Hopkins University.

Bruce Jackson is SUNY Distinguished Professor and James Agee Professor of American Culture at University of Buffalo. **Diane Christian** is SUNY Distinguished Teaching Professor at the same institution. The two have collaborated on many books and films, among them *Death Row* (1979 film), *Death Row* (Beacon 1980), and *In This Timeless Time: Living and Dying on Death Row in America* (University of North Carolina Press 2012). Jackson's most recent book is *Inside the Wire: Prison Photographs from Texas and Arkansas* (University of Texas Press 2013). The French minister of culture appointed him Chevalier in the Order of Arts and Letters in 2002; the president of France appointed him chevalier in the National Order of Merit in 2012.

John James teaches at Bellarmine University in Louisville, Kentucky, where he co-curates the Speak Social Reading Series. His work has appeared or is forthcoming in *Boston Review*, *The Kenyon Review*, *DIAGRAM*, *Hayden's Ferry Review*, *Best New Poets 2013*, and elsewhere. He holds an MFA in poetry from Columbia University, where he received an Academy of American Poets Prize.

Ranjana Khanna is Director of Women's Studies and Professor of English, Literature and Women's Studies at Duke University. Her research focuses on critical theory, feminist theory, postcolonial theory and literature, psychoanalysis, and gender and sexuality studies. She is the author of *Dark Continents: Psychoanalysis and Colonialism* (Duke University Press 2003) and *Algeria Cuts: Women and Representation 1830 to the Present* (Stanford University Press 2008). She is currently working on a book entitled *Asylum: The Concept and the Practice*.

David Kirby's collection *The House on Boulevard St.: New and Selected Poems* was a finalist for the National Book Award in 2007. Kirby is the author of *Little Richard: The Birth of Rock 'n' Roll*, which the *Times Literary Supplement of London* called "a hymn of praise to the emancipatory power of nonsense." His most recent poetry collection is *A Wilderness of Monkeys*.

Taisia Kitaiskaia was born in Russia and raised in America. Her poems and translations have appeared in *Narrative Magazine* and *Poetry International*, and she is currently a James A. Michener fellow at the University of Texas in Austin.

Rodney Koeneke is the author of *Etruria* (Wave 2014), *Musee Mechanique* (BlazeVOX 2006), and *Rouge State* (Pavement Saw 2003), winner of the Transcontinental Poetry Award. His work has appeared in *Aufgabe*, *Fence*, *The Nation*, *New American Writing*, *The Poetry Project Newsletter*, and *ZYZZYVA*, among others. He currently teaches History at Portland State in Portland, Oregon.

Christopher Kondrich is the author of *Contrapuntal* (Parlor Press 2013) and a recipient of The Paris-American Reading Series Prize. New poems appear or are forthcoming in *American Letters & Commentary*, *Boston Review*, *Colorado Review*, *Cream City Review*, *Guernica*, *Drunken Boat*, *The Paris-American*, *Sixth Finch*, *32 Poems*, and *Washington Square*. He is currently a PhD candidate at the University of Denver and an editor for *Denver Quarterly*.

Keith Leonard is the author of *Still, the Shore* (YesYes Books), a chapbook of poems. He has held scholarships from the Bread Loaf Writers' Conference, the Sewanee Writers' Conference, and Indiana University, where he received his MFA. Keith's poems appeared recently in *Memorious*, *Mid-American Review*, *Southern Indiana Review*, and elsewhere.

Halimah Marcus is the co-editor of *Electric Literature*, an innovative digital publisher based out of Brooklyn, and its weekly fiction magazine, *Recommended Reading*. Her writing has appeared in *One Story*, *Philadelphia Noir*, *Sports Illustrated*, and elsewhere. She has an MFA from Brooklyn College.

Zachary Martin is the Editor of *Gulf Coast*.

Maureen N. McLane is the author of three books of poetry, including *This Blue* (FSG 2014). Her book *My Poets* (FSG 2012), an experimental hybrid of memoir and criticism, was a Finalist for the National Book Critics Circle Award in Autobiography and a New York Times Notable Book.

Rosalie Moffett was the winner of a "Discovery"/ *Boston Review* poetry prize. Her work has appeared in *AGNI*, *The Believer*, *Cincinnati Review*, *FIELD*, *Tin House*, and other journals as well as the anthology *Gathered: Contemporary Quaker Poets*. She is a Wallace Stegner fellow at Stanford University. Originally from Eastern Washington, she lives in Oakland, California.

Nick Narbutas was born in San Francisco and is currently an MFA candidate in poetry at Columbia University School of the Arts. In between those events, he studied poetry at Columbia College Chicago, where we won the 2012 Elma Stuckey Poetry Award. His poems have appeared in *Muzzle Magazine*, *Phantom Limb*, *The Journal*, and *Court Green*.

Leslie Jill Patterson's prose has recently appeared in *Grist*, *Baltimore Review*, *The New Guard*, *Colorado Review*, and *Barrelhouse*. Her awards include two Kimmel-Harding Nelson residencies, a Texas Commission on the Arts fellowship in nonfiction, a SMU Embrey Human Rights Fellowship, and the 2013 Everest Southwest Literary Award, judged by Lee K. Abbott. She teaches in the creative writing program at Texas Tech University and serves as the case storyteller for the Texas Regional Public Defenders Office for Capital Cases.

Carl Phillips is the author of twelve books of poetry, most recently *Silverchest* (FSG 2013) and *Double Shadow* (FSG 2011), winner of the Los Angeles Times Book Prize. A book of essays, *The Art*

of *Daring: Risk, Restlessness, Imagination*, will be out from Graywolf in 2014. Phillips is Professor of English at Washington University in St. Louis.

Meghan Privitello's first book, *A New Language for Falling out of Love*, will be published with YesYes Books in September 2014. Her work has appeared or is forthcoming from *Boston Review*, *Gettysburg Review*, *Pinwheel*, *Sixth Finch*, *The Kenyon Review*, *Best New Poets 2012*, and elsewhere. She is currently at work on her second manuscript, *One God at a Time*.

Ines Pujos born in France, raised in Michigan, is currently in the MFA Poetry program at NYU. Her poems have appeared in *Phantom Limb*, *Hayden's Ferry*, *Puerto Del Sol*, *Alehouse Press*, *The Bitter Oleander*, and *Dunes Review*.

Ana Reyes is an MFA candidate at Louisiana State University. Her fiction, poetry and reviews have appeared or are forthcoming in *Pear Noir*, *Foliate Oak*, and *The New Delta Review*.

Pamela Ryder is the author of *Correction of Drift: A Novel in Stories and A Tendency to Be Gone*. "There's Nothing Here You'd Want" is part of a new collection.

Zineb Sedira was born in Paris and studied in London, receiving a BA from Central Saint Martins School of Art in 1995, an MFA from the Slade School of Art in 1997, and an MPhil from the Royal College of Art in 2003. Her solo exhibitions have been presented at SESC Pompeia in Sao Paulo (2014), Gallery La Jetée in Marseille (2013), Gallery kamel mennour (2011), and the Palais de Tokyo in Paris (2010), Prefix Institute of Contemporary Art in Toronto (2010), and the Photographer's Gallery in London (2006). Her work has been featured in dozens of international group exhibitions, including *The Divine Comedy* (2014), *Ici, ailleurs* (2013), *Wild is the Wind* (2010), *Global Feminisms* (2007), and *Africa Remix* (2004). She is a recipient of the Knight of the Order of Arts and Letters awarded by the French Ministry of Culture and founder of A.R.I.A., an artist residency in Algiers.

Jennifer Sinor's work has most recently appeared, or is forthcoming in *Seneca Review*, *Ecotone*, and *Still Point Arts Quarterly*. She is working on a collection of essays that take inspiration from the letters of Georgia O'Keeffe. She teaches creative writing at Utah State University, where she is an associate professor of English.

Craig Morgan Teicher is the author of three books, most recently, *To Keep Love Blurry* (BOA 2012) and the chapbook *Ambivalence and Other Conundrums* (Omni Dawn). He lives in New York with his wife and two children. On the Web, he lives at www.craigmorganteicher.com.

Clarissa Tossin received her MFA from California Institute of the Arts (2009) and BFA from Fundação Armando Álvares Penteado (2000). Her work has been included in solo and group exhibitions worldwide, including most recently a 2013 commission at the Blaffer Art Museum in Houston: *Blind Spot: Window into Houston Clarissa Tossin*. Earlier this year, her work could be seen at the Museum of Contemporary Art in Detroit as a part of CCA Wattis Institute's traveling exhibition, *When Attitudes Became Form Become Attitudes*. Tossin has had solo exhibitions at Galeria Luisa Strina and Sicardi Gallery. She was a Core Fellow at the Museum of Fine Arts Houston from 2010 to 2012 and has recently concluded the Artpace International Artist-in-Residency curated by

Hou Hanru. Recent awards include Artistic Innovation Grant (2012) from the Center for Cultural Innovation and Videoarte Project Grant (2012) from Fundação Joaquim Nabuco.

Marina Weiss was born and raised in Massachusetts. A former Fulbright grantee, she holds degrees from Amherst College and New York University and lives in Brooklyn. Her poetry is published or forthcoming in *Tin House*, *Colorado Review*, *Narrative*, *Canteen*, *Parallax*, and elsewhere.

These poems are from **Joe Wenderoth's** fourth book of poems, *If I Don't Breathe How Do I Sleep*, which is forthcoming from Wave Books in 2014. He edits *Inscriptions Of The Seizure State* (in *Gigantic*), and produces its podcast, *About Brett Favre*. This podcast, along with an archive of public readings and otherwise recorded audio, can be found at Internet Archive. His films can be found on YouTube. Wenderoth is Professor of English at UC Davis, where he teaches in the Creative Writing graduate program.

Kenny Williams lives and works in Richmond, Virginia, and holds a degree from Vermont College of Fine Arts. His poems have appeared most recently in *Rattle*, *Lake Effect*, and *Fence*, and are forthcoming in *FIELD*, *American Literary Review*, and the *Kenyon Review Online*.

Colin Winnette is the author of three books: *Revelation*, *Animal Collection*, and *Fondly*. He lives in San Francisco.