

DISCUSSION GUIDE

RACE TO EXECUTION

A FILM BY RACHEL LYON

RACE TO EXECUTION traces the fates of two Death Row inmates—Robert Tarver in Alabama and Madison Hobley in Chicago. Through these compelling personal narratives and the often unexpected results of research on race, justice and the media, RACE TO EXECUTION exposes the factors that influence who lives and who dies at the hands of the state.



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FROM THE FILMMAKER

For many years, I kept my life completely separate from my sister's—she dealt with murder and mayhem, and I made movies. One day she called to say that an innocent client, Madison Hobley, might finally be freed from Death Row. RACE TO EXECUTION was inspired by my sister, former Governor Ryan and Madison. Once I found out more about how bias was the least publicized and most pervasive aspect of who actually dies at the hand of the state, I began to realize that race is the elephant in the living room of America's death penalty system.

This is the first major documentary about the death penalty through the lens of race. I found that most recent death penalty films focused on DNA and innocence, and have garnered the spotlight, with race simply mentioned as one of many factors that affects how a trial will turn out. Why does one man who kills in a robbery-gone-bad live, while another person who commits the exact same crime die?

I began filming at DePaul University in 2003, sequestered away with authors, governors, researchers, media experts and practitioners who provided a chilling account of the raw relationship that race plays in the death penalty. Emmy Award-winning writer Chris Intagliata and I realized that the film had to explore both the North and the South in America, and Bryan Stevenson, of the Equal Justice Initiative, agreed to work with us in Alabama. Robert Tarver's story tragically seemed perfect for RACE TO EXECUTION, with the "formula" black-on-white crime, the lack of competent defense, and the race and gender of the jury all forcefully narrating the key themes of race and execution.

I have chosen to interweave these compelling and personal Death Row stories within a backdrop of analysis. We enter the film with the story of Robert Tarver, convicted killer of Hugh Kite, and continue through interviews with Tarver's aunt Ethel Ponder, Kite's daughter Coty Holmes and crime-beat reporter Sam Harper, who corresponded with Tarver during his final days. Through their accounts, a full portrait of Robert Tarver is delineated.



Madison Hobley directly relays his personal accounts of police brutality, falsified confession, incompetent defense and planted evidence. He presents us with his harrowing 16-year experience on Death Row.

As death row defenders Bryan Stevenson and Andrea Lyon communicate their personal experiences with their clients Tarver and Hobley, we also include the thoughts and comments of former prosecutors, such as author Scott Turow and Tom Epach, who have differing opinions about the death penalty. Also included are viewpoints by media and law experts, the department of justice and top-notch scholars whose work is presented in this film for the first time.

My co-producer, Jim Lopes, and I hold different perspectives on the death penalty issue. Is it right to punish someone for killing someone by killing yet again? In these difficult times, are there some crimes so heinous that we need to keep the death penalty as an option? Does our legal system allow us to administer justice fairly and without regard to race, ethnicity or class?

We hope you will make up your own mind about the impact of race and the death penalty and that you will look at the death penalty through fresh eyes. Are we truly executing only the worst of the worst? Are we ever sure of innocence and guilt? We hope you will look at the evidence, the ideas and the heart of the film from your own perspective.

Does the judicial system work? Visit www.lionessmedia.com and www.activevoice.net for further information, and let us know what you think!

Rachel Lyon



Madison Hobley



Robert Tarver

THE FILM

RACE TO EXECUTION traces the fates of two African American Death Row inmates—Robert Tarver in Russell County, Alabama and Madison Hobley in Chicago, Illinois. Their cases are presented against a backdrop of inequality: In the United States, those who murder whites are much more likely to be sentenced to death than those who kill blacks.

With commentary from family members, attorneys and legal scholars, the film looks for explanations of this disparity. It explores factors such as the impact of media on the internalized biases of jury members and how race bias in jury selection influences who lives and who dies at the hands of the state. By focusing on the added dimension of race, RACE TO EXECUTION expands the conversation about capital punishment.



Hugh and Coty Kite

Select People Featured in RACE TO EXECUTION

Andrea Lyon

Lawyer, Associate Dean of Clinics and Director of the Center for Justice in Capital Cases at DePaul University's College of Law

Ethel Ponder

Aunt of Death Row inmate Robert Tarver

Robert Tarver

Charged, sentenced to death and executed for the murder of Hugh Kite in Alabama

Cody Kite Holmes

Daughter of murder victim Hugh Kite

Bryan Stevenson

Lawyer who handled Robert Tarver's final appeals, Executive Director of Equal Justice Initiative of Alabama and a professor at the New York University School of Law

Sam Harper

Journalist reporting on the Robert Tarver story

Madison Hobley

Sentenced to death for the arson-murder that killed his wife and child in Chicago. Exonerated after living on Death Row for 16 years.

BACKGROUND INFORMATION

The Death Penalty in the U.S.

European settlers first used execution as a punishment for crime in Jamestown in 1607. Since then there have been debates about appropriate methods of execution and the kinds of acts that should and should not be considered capital crimes. There have also been challenges to the legality of the death penalty.

In 1972, by a slim 5-4 margin, the U.S. Supreme Court in *Furman v. Georgia* declared the death penalty illegal. However, only two of the justices (Brennan and Marshall) said that capital punishment was unconstitutional in all cases. The majority opinion focused on implementation, labeling the "arbitrary and capricious" way that the death penalty had been applied as cruel and unusual. By 1975, 30 states had passed new death penalty legislation addressing the High Court's concerns. A year later, in *Gregg v. Georgia* (1976), the Supreme Court upheld Georgia's law, affirming that the death penalty was not always cruel and unusual punishment. Currently, 38 states use the death penalty; 12 do not.

Public Opinion

According to Michigan State University's Death Penalty Information Center, there has nearly always been majority support for capital punishment in the U.S. Surveys as far back as 1936 showed that 61 percent of Americans believed that murderers should receive the death penalty. In 1966, the figure dropped to 42 percent, an all-time low.

In 1994, 80 percent of Americans approved of the death penalty. Today that support has dropped to 70 percent. However, when poll respondents are given a choice between death and life imprisonment without the possibility of parole, support for the death penalty drops to about 50 percent.

International Views

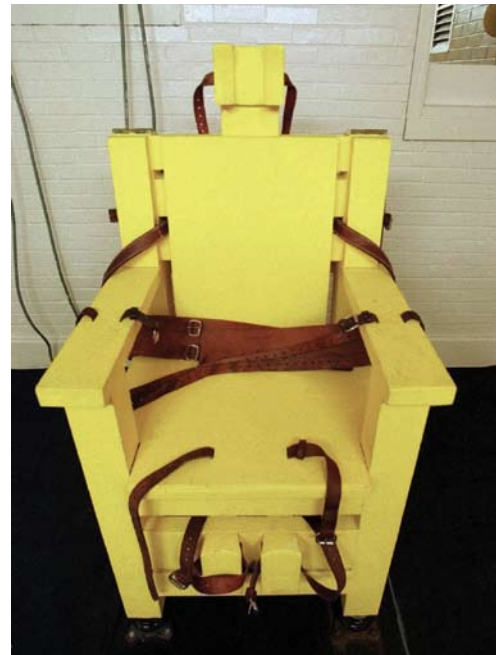
After World War II, the United Nations Universal Declaration of Human Rights included the "right to life" as a basic tenet. Many nations not yet prepared to abolish the death penalty focused instead on limiting its application, exempting categories of citizens like juveniles or the mentally ill.

In 1999, the UN Human Rights Commission called for a worldwide moratorium on executions. Since then, 120 countries have rejected the use of capital punishment while 76 countries still actively use the death penalty.

For a detailed history of capital punishment in the United States, see <http://www.pbs.org/wgbh/pages/frontline/shows/execution/readings/history.html>

Death Penalty Statistics Related to Race

- Since 1976, a total of 1,047 people have been executed in the U.S. Just over 34 percent of those were black.
- Approximately 12 percent of Americans are black. Yet, nearly 70 percent of people convicted of murder are people of color.
- Less than 40 percent of murder victims are white. Yet, 80 percent of the people on Death Row have been convicted of killing a white person.
- In Mississippi, the killer of a white victim is 5.5 times more likely to be sentenced to die than the murderer of a black victim. In Philadelphia, the figure is seven times more likely. In Texas, 30 times more likely. In California, those who kill white victims are four times more likely to receive the death penalty than those who kill Hispanics.
- Recent studies show that when a jury includes five or more white males, the chance that they will sentence a defendant to death increases dramatically, from a 30 percent chance to a 70 percent chance.



THINKING MORE DEEPLY

General

- Describe a moment in the film that disturbed you. Describe a moment that gave you hope.
- If you could have a conversation with Coty Kite Holmes, Ethel Ponder or Madison Hobley, what would you say to them? What would you ask?
- How do you define justice in capital cases? Are all families of victims in favor of the death penalty?
- Were you surprised at the evidence provided in the film that race plays a role in the justice system? Why or why not?
- In theory, it is unacceptable to ever execute an innocent person. Do you think any legal system could guarantee that this will never happen?

Race and Racism

- Should Americans be concerned about the apparent pattern of racial inequity in application of the death penalty, or as the film puts it, that “the price of a life depends on its color”? Why, or why not?
- How do you think that legislators, judges, law enforcement officers and prosecutors should respond to bias when they suspect it is occurring on a case in which they are personally involved?
- Do you think equal protection laws and practices in employment and education have fared better than in the courts? Why or why not?
- Bryan Stevenson says, “I no longer ask, ‘Do these people who committed these crimes deserve the death penalty?’ I ask, ‘Does society deserve to kill people when they are so unwilling to engage in an honest conversation about the impact of race?’” How would you answer him?
- If you were on trial, would you be comfortable with a jury that did not include anyone of your race or ethnicity? Why or why not? How about gender, socioeconomic class or religion? How would you suggest that the system define “peer” when it comes to the right to be judged by “a jury of your peers”?
- In the media you view, read or listen to most often, what is the race or ethnicity of a majority of the crime victims? What is the race or ethnicity of the perpetrators? Leaving specific stories aside, do you believe that the overall picture you get of crime from the media is accurate? Why or why not? What factors do news directors or editors use in choosing which stories to report? What impact does the Internet have?
- One legal scholar says “People are not necessarily intending to act in a racist way, but it is happening in a racist way.” Applying this quote to the justice system, how is this possible? How should racially based outcomes in judicial cases be addressed?

The Justice System

- The film asserts that the U.S. legal system “has a long history of tolerating separate and unequal justice.” What is the legacy of that history?
- Compare and contrast these two statements:
 - “There are those crimes that deprive all of us of our basic sense of humanity, and I think that is one of the reasons to have the death penalty. There is some way of getting a measure of justice on these kinds of despicably evil, destructive crimes.” – Tom Epach
 - “We don’t execute people who do the worst things; we execute people who are the least able to defend themselves.” – Andrea Lyon
- What role, if any, should the family, friends or colleagues of murder victims play in the prosecution and sentencing of their loved one’s killer? What role, if any, should the family, friends or colleagues of the convicted murderer play?
- The film provides several instances where individuals have utterly different views of the same murder, trial and execution. For example, Coty Kite Holmes sees Robert Tarver as a “horrible man” and his trial as “very fair,” while Tarver’s Aunt, Ethel Ponder, describes him as “artistic, creative and compassionate” and concludes that “no way did he have a fair trial.” How does the justice system account for these varying points of view? How does the media influence the public’s perspective? Whose viewpoint tends to guide events or hold most sway?
- How important is it for defendants in capital murder cases to have experienced attorneys? Would you be willing to pay higher taxes to ensure higher quality representation for all defendants? Why or why not?
- In a 1987 decision, the Supreme Court recognized that patterns of racism existed, but that even though overall statistics showed race was a significant pattern, they wanted specific proof of bias in each individual case. Attorney Andrea Lyon said that the decision was “a rejection of social science as having any place in the law.” In your view, how should the justice system deal with institutional or systemic racism? Does requiring demonstration of racial bias in each individual case serve justice? Why or why not?
- What factors do you consider important in determining whether or not to support the death penalty? In other words, what is the basis of your opinion? In your view, what is the purpose of the death penalty? How well or poorly does it accomplish that purpose?

SUGGESTIONS FOR ACTION

Together with other audience members, brainstorm actions that you might take as an individual and that people might do as a group. If you need help getting started, you might begin your list with these suggestions:

- Coordinate with a local law school to host a discussion on race and the death penalty. Invite judges and others involved in the justice system.
- Find organizations in your community who work to end racism and see what you can do to help.
- Share your views on the death penalty with your elected representatives. Consider sending a letter to the editor of your local newspaper(s).
- Assign teams to monitor local media portrayals of crime. Record the race and/or ethnicity of victims and perpetrators. Publicize any trends you find. Look for ways to support media literacy education efforts in your community.
- Hold a screening or event in your church, temple, synagogue or mosque.

For additional outreach ideas, visit itvs.org, the website of the Independent Television Service. For local information, check the website of your PBS station.

Before you leave this event, commit yourself to pursue one item from the brainstorm list.

RESOURCES FOR FURTHER STUDY & ACTION

General

<http://www.racetoexecution.com> - The official website for the film.

<http://www.activevoice.net> - National outreach partner for RACE TO EXECUTION.

Death Penalty

<http://www.deathpenaltyinfo.org/> - The Death Penalty Information Center provides briefings detailing the legal issues surrounding implementation of the death penalty in the U.S. The reports include race-based statistics.

<http://www.aclu.org/capital/index.html> - The website of the American Civil Liberties Union provides a wide range of resources designed to support those who are working to abolish capital punishment.

<http://www.prodeathpenalty.com/> - Justice for All, a criminal justice reform organization that promotes victims rights and supports the death penalty, sponsors this site which includes a wide range of resources designed to support those who want to keep capital punishment.

<http://www.amnestyusa.org/abolish/listpending.do> - Amnesty International, which opposes the death penalty, provides facts and figures on executions in the U.S. searchable by date or state.

<http://pewforum.org/death-penalty/> - The Pew Charitable Trust supports this non-partisan site that includes polling data related to the death penalty as well as articles exploring ethical and religious dimensions of the debate.

Racism

http://www.eraseracismny.org/institutional_racism/ - The website of ERASE, a networking hub for organizations working to eliminate racism, provides concise explanations of the differences between institutional racism and racial prejudice.

RACE TO EXECUTION WILL AIR NATIONALLY ON THE EMMY AWARD-WINNING PBS SERIES *INDEPENDENT LENS* ON TUESDAY, MARCH 27, 2007 AT 10 PM. CHECK LOCAL LISTINGS.

RACE TO EXECUTION is a co-production of Lioness Media Arts, Inc. and the Independent Television Service (ITVS), and a co-presentation with National Black Programming Consortium, with funding provided by the Corporation for Public Broadcasting. The Emmy award-winning series *Independent Lens* is jointly curated by ITVS and PBS and is funded by the Corporation for Public Broadcasting (CPB) with additional funding provided by PBS and the National Endowment for the Arts.

ITVS COMMUNITY is the national community engagement program of the Independent Television Service. ITVS COMMUNITY works to leverage the unique and timely content of the Emmy Award-winning PBS series *Independent Lens* to build stronger connections among leading organizations, local communities and public television stations around key social issues and create more opportunities for civic engagement and positive social change. To find out more about ITVS COMMUNITY, visit www.itvs.org/outreach.

