



## **Straight Talk: Duke Case Shows Justice System's Flaws**

**Monday , April 23, 2007**

**By Radley Balko**

To their great credit, the Duke lacrosse players who were exonerated of rape charges by North Carolina Attorney General Roy Cooper earlier this month understood that for all the hell they've gone through the past year, **what happened to them isn't uncommon.**

"There seem to be some flaws in the legal system that should be addressed," Colin Finnerty said, "the fact that in North Carolina there are no recordings of the grand jury, and to establish checks and balances on district attorneys."

Reade Seligmann, who had an iron-clad alibi to counter District Attorney Mike Nifong's accusation but was nonetheless dragged through the mud, added, "I can't imagine what they do to people who do not have the resources to defend themselves."

There's probably some truth to the accusation that the media's initial interest in this case was driven by media bias and "frat boy" stereotypes. But much of the initial interest also likely was driven by the "man bites dog" nature of this story.

Everything was happening in reverse. Here you had a lower-income black woman making accusations against affluent, white men. You had conservatives and law-and-order types rallying to support the defendants, while civil rights activists and criminal justice advocates were finding common cause with the accuser.

In fact, in some way the extensive media coverage may have helped the Duke players. It brought a new level of scrutiny and transparency to this particular criminal justice outrage and kept the media glare on Nifong's every move.

The same week the Duke players were exonerated, another man was cleared of rape charges as well. James Giles was convicted in 1982 of raping a woman in Dallas County, Texas. Giles served 10 years in prison and a 14 as a registered sex offender.

He lost his marriage and contact with much of his family and couldn't travel 10 miles outside his home without first obtaining permission. He was cleared by DNA evidence, with the help of the fantastic organization, the Innocence Project.

Giles isn't alone. He's the 12th man in Dallas County to be exonerated by DNA evidence. There are more than 400 others there waiting for DNA tests, and even the district attorney there believes a large percentage of them may be innocent.

"It's a new day in Dallas," said Dallas County's district attorney, Craig Watkins, after announcing Giles' release. Dallas County has a long history of tough-on-crime prosecutors and indifference to criminal justice protections that may have put hundreds of innocents in prison — or to death.

Referring to the old mentality, Watkins added, "if you sent someone to jail who was possibly innocent, it was a badge of honor."

Watkins' quest to clear the names of the innocent is aided by the fact that Dallas County coincidentally has historically preserved blood samples from cases involving violent crime. Most other jurisdictions across the country only recently began doing that.

It's likely of no coincidence that the one jurisdiction where blood samples have been preserved is also one that's finding a shocking number of convictions of innocent people.

If there's one positive that might come out of the Duke imbroglio, it's that the unusual demographics of the parties involved and alliances it spawned may mean some much-needed new scrutiny of the criminal justice system, and win welcome new advocates for reform.

Nifong is by no means the only overly aggressive prosecutor in this country. And Durham is by no means the only jurisdiction where the wrong people have been wrongly accused. As Seligmann suggested, the only real difference may have been that the Duke players had the resources to fight back. Many others don't.

Examples abound.

A 2002 audit of the crime lab in Houston, Texas, found that experts may have given "false and scientifically unsound" testimony in thousands of criminal cases. Subsequent reports showed that crime lab employees often tailored their tests to fit police theories about how a crime was committed. The city is finishing up a \$5.5 million review of 2,300 cases, including death penalty cases.

In 2003, Texas Gov. Rick Perry pardoned 35 mostly black residents of Tulia, Texas, who had been prosecuted for drug crimes based on testimony from undercover police officer Tom Coleman. Coleman, once named Texas "Police Officer of the Year," was found to have manufactured evidence from whole cloth.

Just last month in Maryland, self-styled ballistics expert Joe Kopera committed suicide after it was revealed that he lied about his expertise and training. Kopera had testified in hundreds of criminal trials over 40 years, many of which may need to be reopened.

A 2005 audit found critical errors in the state of Virginia's crime lab, considered one of the best in the country. The audit found that senior-level experts in the lab were too often persuaded by political pressure to secure convictions. The audit was ordered after the exoneration of Earl Washington Jr., a man who served 17 years on Virginia's death row.

These are merely examples from the last several years, and they're by no means comprehensive. Here's hoping that the most vocal critics of Mike Nifong and the Durham justice system that relentlessly pursued the Duke lacrosse players — many of whom don't generally speak out on criminal justice issues — will see the case as more than just an example of media bias or reverse discrimination.

It's merely one very high-profile example of the flaws and inadequacies in our criminal justice system. And it demonstrates why we need strong protections for the accused and transparency, accountability and oversight of the system that accuses them.

*Radley Balko is a senior editor with Reason magazine. He publishes the weblog, [TheAgitator.com](http://TheAgitator.com).*

**[Respond to Writer](#)**