

# The Case of Gary Graham: Teaching Notes

## Case Analysis

The Graham case is likely to elicit emotional reactions from students, and this is a natural response. Emotions play an essential role in bringing the case and issues to life for the students, and many educators find that students will engage with and retain more of the material if they have an emotional connection to it. Emotions play an essential role in bringing the case and issues to life for the students, and many educators find that students will engage with and retain more of the material if they have an emotional connection to it. Students' immediate reactions when asked to analyze this case may be to highlight aspects of the case that reflect or validate their existing opinions on the death penalty. Therefore, it is important to explore a variety of perspectives.

There are several ways students can analyze this case that will lead to exploring broader issues. The following suggestions are options for structuring a discussion and guiding analysis of the case.

### 1. Case Comprehension and Analysis: Who's Who?

Who are the main participants in this case? Have students consider how the criminal justice system works by examining the roles different people played throughout this case. For each of the participants listed below, have students use the information from the narrative and supplementary resources to answer the following questions:

- What role did this person play in this case? What were his or her responsibilities or obligations?
- What did this person do to successfully fulfill his or her obligations?
- How, if at all, did this person fail to meet his obligations or responsibilities? What, if anything, could this person have done differently?

#### Participants:

- The police
- The eyewitnesses
- The prosecutor
- The defense lawyers
- The defense investigators
- The trial judge
- The jury
- The appellate defense lawyers
- The appellate judges
- The Supreme Court
- The Texas governors (both Governor Ann Richards and Governor George W. Bush)

- The press
- The public

## 2. Analysis of the Verdict and Sentence

Have students consider what the facts presented indicate about Graham's innocence or guilt of the murder of Bobby Lambert.

- What evidence in the narrative and/or supplementary resources indicates that Graham was guilty of the murder? What evidence is there that he was innocent?
- What questions do you still have about Graham's guilt or innocence? What information would you have liked to have to make a better assessment of his guilt or innocence?

Next, have students examine the severity of Graham's sentence.

- What information in the case was used to argue that the death penalty should not have been used in this instance? What mitigating factors were considered when sentencing Graham? What mitigating factors should have been considered when sentencing Graham? First answer this question in terms of the evidence that was available at the time of the trial, then in terms of the evidence that was available at the time of the execution.
- What information in the case was used to argue that the death penalty was employed appropriately? What aggravating factors were considered when sentencing Graham? First answer this question in terms of the evidence that was available at the time of the trial, then in terms of the evidence that was available at the time of the execution.
- What questions do you still have about the appropriateness of Graham's sentence? What information would you like to have to make a better assessment of the validity or appropriateness of his sentence?

## 3. Sifting through Information: What is the Whole Truth?

Have students consider how the information available to them affects their analysis of Graham's case. One option is to have students begin the case analysis by reading the narrative only through the guilt-innocence trial phase. Based on the given information, have the students:

- Identify the essential facts that should be included in a newspaper article covering the story in 1981
- Write a one-page summary of the case for a national newspaper

Then have students exchange and compare their news summaries. Have them consider how different students' accounts of the stories differed. Ask them to consider the reasons for any differences in the stories.

Then have students read the rest of the narrative and additional resources and write a second news story, covering the case in 2000. Have the students compare this news story with their original one. Also, have students consider the information they had available as resources. Ask them:

- What information would you have liked to have in order to write a comprehensive news story?
- Did you have any extraneous information that you did not include in your news summary? Which information? Why did you determine it was not relevant to include?
- For each of the following documents and supplementary resources, determine how, if at all, it helps to tell the whole “truth” of the story. Do any of the documents or resources detract from the “truth” of the story? How and why? Rank and justify the importance of including the following document or resource in a journalistic account of the case:
  - Picture of the victim
  - Picture of the defendant
  - The photo array of suspects that the eyewitness saw
  - The police report
  - Written eyewitness testimonies
  - Information about the defendant’s childhood
  - Information about the victim’s criminal history
  - Graham’s last statement

As an alternative assignment, have students write articles about the Graham case for different audiences. Assign one of the following types of publications to a student or a team of students:

- A local Houston newspaper
- A national newspaper
- An international newspaper
- An anti-death penalty Web site or journal
- A pro-death penalty Web site or journal

Have students compare accounts and consider which information was highlighted for each audience and why.

#### **4. Research and Debate**

Divide students into a team of researchers on behalf of Graham and a team of researchers on behalf of the state of Texas, and give them the following assignment:

- Develop a presentation that includes a set of facts, evidence, analyses, and questions about the Graham case. Your presentation should include an analysis of how Graham’s case was handled, the appropriateness of sentencing him to death, the positive or negative

effects of Graham's execution on society-at-large, and the implications of issues raised in this case.

### **GRAHAM TEAM:**

Have the Graham team read the case study and identify:

- Facts or issues presented in the case that might be used to make a case against Graham's execution—for example, you might find evidence presented in the case that indicate that Graham may have been innocent of the crime.
- Research questions that would yield additional information that would help support your position. For example, you may note Graham's age at the time of the crime as a fact that you could use to make a case against his execution. To help support your position, you might want to ask: Are juveniles more likely to be rehabilitated than adults are? To answer that question, you could look at research on recidivism rates of juveniles versus recidivism rates of adults.
- Issues or questions about the death penalty that this case raises beyond what is presented on the site.

### **TEXAS TEAM:**

The State of Texas team's job is to read the case study and identify:

- Facts or issues presented in the case that might be used to make a case for Graham's execution. For example, you might find evidence presented in the case that indicate that Graham was a menace to society, and unable to be rehabilitated.
- Research questions that would yield additional information that would help support your position. For example, you might want to conduct research on recidivism rates of violent criminals to find out the likelihood of Graham repeating criminal acts while in prison. What are the recidivism rates for violent offenders who are paroled? Alternatively, you may want to research the mental health of victim's families when the defendant is sentenced to death versus sentenced to life in prison.
- Issues or questions about the death penalty that this case raises beyond what is presented on the site.

Have teams present their evidence, facts and questions.

*Possible questions that students may identify as relevant to the Graham case:*

- Is the death penalty imposed fairly across racial, gender, and class lines?
- Should there be a limit on the number of appeals granted to death-row inmates?
- Should juveniles be eligible for the death penalty?
- Do death penalty laws adequately prevent the possibility of executing an innocent person?
- What are the current error rates in death penalty convictions and how can error rates be reduced?
- Does the criminal justice system provide for adequate defense counsel to all defendants?
- How reliable are eyewitness accounts of violent crimes? To what extent should

- eyewitness accounts be used as evidence to convict someone for murder?
- What aggravating and mitigating factors are most essential to take into account when sentencing someone convicted of a capital crime?
- Is the death penalty an effective deterrent?
- What is the recidivism rate for murderers who are *not* sentenced to death?

## 5. Other Activities

The following are suggestions for other activities that could be done either independently or in conjunction with other activities or research projects:

### The Fourth Branch of Government: The Role of the Press

Have students research and evaluate the press coverage of the Graham case. Ask them to focus on the months leading up to Graham's execution date (June 22, 2000) and find articles from several different media sources. Have students answer the following questions:

- How do the different sources differ in their presentation of facts of the case? Do any articles present conflicting accounts of the case?
- What, if any, evidence suggests that the media presence or public opinion shaped the outcome of this case? How?
- Consider the following quotation:

*"The jury decided in 1981 that he was guilty of this capital murder, and he was sentenced to death. And over the past 19 years, that has been upheld by every single court that has looked at this case. So I don't think it should be tried by public opinion. And I think that the press attention is something that has just been generated by the defense to try to manipulate the outcome of the case."*

- Roe Wilson, Harris County Assistant District Attorney in a CNN.com article

Do you agree or disagree with the sentiment expressed in this quotation? Why? What role do you think the press and/or the public should play in the criminal justice system?

### Reliability of Eyewitness Accounts

Conduct an activity with your students, in which you stage an unexpected "incident," such as an argument or a theft. After the incident, ask the students to write a brief, but detailed account of the incident, so that you can report it to the appropriate authority. Also, you might want to have them write a description of the perpetrator or perpetrators.

Compare different students' accounts of what happened. Does everyone agree on what the perpetrator looked like? Does everyone agree about the circumstances? Did different students choose to highlight different information about the situation? Are there any conflicting accounts

of the situation?

Reveal that the incident was staged in order to explore how and why eyewitness accounts of the same incident may differ. Discuss with the students why some of their accounts might have differed. Do some people have better memory for details? Do some people pay attention to different aspects of an incident? How if at all, might people's biases or different perspectives alter the way they see and interpret events?

### **Death Penalty Laws**

Have students examine the role of federal and state legislation in this case. Assign them one of the following laws or statutes:

- 1996 Anti-terrorism and Effective Death Penalty Act
- Texas capital sentencing guidelines
- Texas Clemency Guidelines

Have them research this law or statute and answer the following questions:

- What are the major provisions of this law or statute as it relates to the death penalty in Gary Graham's case and in general?
- How did this law or statute affect the outcome of the Gary Graham case?
- What, if any, legislative reforms would you recommend, which might have changed some aspect of the way this case was handled? Why?

### **Constitutional Rights and the Death Penalty**

Have students conduct a constitutional analysis of the Graham case. Have students use the 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments, and related Supreme Court cases, to argue whether Graham's execution was constitutional, and whether Graham's constitutional rights were upheld. .