

Interview with David R. Dow – director of the Texas Innocence Network / TIN

The questions were asked by Ines Aubert



David, after the third episode of the documentary of BBC about your work for Robert Pruett and Robert Garza was broadcast, I felt so grateful for all you do with your Innocence Network. Robert Pruett has been a close friend of mine for 12 years.

Can you tell us in a couple of sentences what your law center <http://texasinnocencenetwork.com/> is and what its goal is?

The University of Houston Law Center is the law school at the University of Houston, which is a large public university. We started the Texas Innocence Network (TIN) fourteen years ago; when we started it, I had been representing death row inmates for around ten years. TIN is now divided into a capital division, which works exclusively on death penalty cases, and a noncapital division, which works cases where a non death row inmate claims to be innocent.

Can you tell me how many people work in the capital division?

3.5 lawyers and at any given moment, 6-10 students or interns.

What is your position in the TIN?

I founded TIN and serve as its director.

What is the difference between the Texas Innocence Network and the Innocence Project?

The Innocence Project in New York is the mother of all the nation's innocence programs. They are path-breakers. At the same time, they are, at least for the present, focused entirely on DNA cases (although their policy work is not so limited). Since TIN was founded, three other innocence projects have started in Texas. They all do good work.

How do you choose the students who work with you? I imagine that this is an honor for them.

They apply and we interview them and if it is a good fit, they sign up.

Just between us: What was the most convincing quality Kelly showed when she applied? ☺

Determination and complete commitment. Those are two qualities, but they tied for being "most convincing."

Can you give us an example of the work you've been able to do for Robert Pruett?

We have focused our efforts in the Pruett case on two things: first, showing that there is a significant possibility he is innocent, and that evidence of his innocence was either hidden or, at a minimum, not disclosed, by the prosecutors; and second, locating substantial evidence which the jury did not hear that suggests he should have been sentenced to life (rather than death) if even convicted at all.

How do you choose the inmates your network is working for?

In some cases, a judge calls us and asks us to represent an inmate. In other cases, the inmate writes us directly. We are the only organization in Texas that routinely gets involved in

cases at the very late stages, where the challenges are unusually intense and the probability of success unusually low.

Is it possible to recommend an inmate to you? And how would one have to proceed?

The inmates have to request our assistance directly. Of course, if people are corresponding with an inmate they think might need our help, they can certainly let the inmate know that.

The work you're doing for a particular inmate is not related to possible donations made by his family and friends, is it?

No, and in general we do not accept donations or contributions from family members of our clients, precisely to avoid the perception that our effort is in any way related to remuneration.

On a not too serious note: how do you handle people contacting you and telling you what evidence you might have failed to notice in a particular case?

Most people who contact us do not have a thorough understanding of what we have done, what we know, and what factors underlie the decisions we have made. That said, we can learn from anyone. So I have no objection to people contacting me or others in my office. We are bound by ethical rules that prohibit us from having communications with anyone besides the client about the details of the case, though, so what we learn will have to stay inside our office unless and until we recite it in a publicly filed legal document.

Can you give me an example of a helpful contribution or hint given by a private person or a friend of one of your clients?

Most deal with people we should talk to whom we had not identified as valuable, and often outsiders help facilitate those types of meetings. If there is someone who does not want to meet with us, or does not want us to find him (or her), private parties can at times help us address those difficulties.

Is it imaginable that you could come to the conclusion that one of your clients is actually guilty while you work to prove his innocence?

Sure.

Your answer, as short as it is, leaves me speechless for a second.... What do you do when you come to the belief your client is guilty?

My belief is almost irrelevant. The state has to satisfy a legal standard; the state has the burden of proving guilt beyond a reasonable doubt. If I believe the state has not met its legal obligations, I am going to say so, and say so aggressively, no matter what I personally believe. Indeed, in the vast majority of my cases, I deliberately form no beliefs about my client's guilt or innocence. My job is to protect his rights, and doing my job is simply not dependent in any way on anything other than what the state (or my client's previous lawyers) have either done or not done.

David, you've written several books:

Things I've Learned from Dying: A Book About Life (2014)

The Autobiography of an Execution (2011)

Machinery of Death: The Reality of America's Death Penalty Regime (2002)

Executed on a Technicality: Lethal Injustice on America's Death Row (2006)

Killing Time: One Man's Race to Stop an Execution (2011)

America's Prophets: How Judicial Activism Makes America Great (2009)

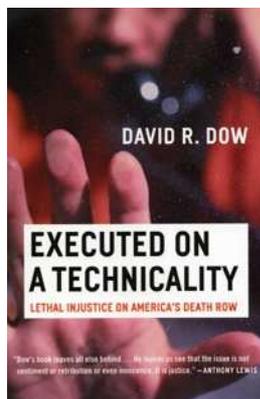
Which one would you recommend most to people who write to death row inmates and why?

Things I've Learned from Dying is my most recent book, and tells the stories of three deaths, one being a client of mine who was unquestionably not innocent. *The Autobiography of an Execution* tells the story of a client of mine whom I believe was innocent. Those are the two I would recommend, but neither is a polemical book about the death penalty. They are much more about what it is like to be a death penalty lawyer. If the reader wants a polemical book about the death penalty, I would recommend *Executed on a Technicality*.

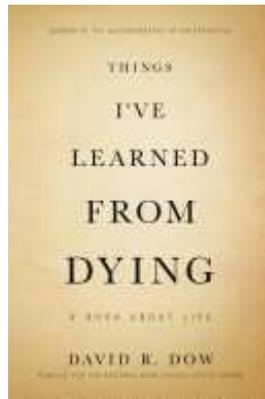
Getting to know you and the Texas Innocence Network was very interesting for me. I'm very grateful that Robert has you working on his case.

I thank you so much for taking the time to answer my questions and wish you all the best in your work!

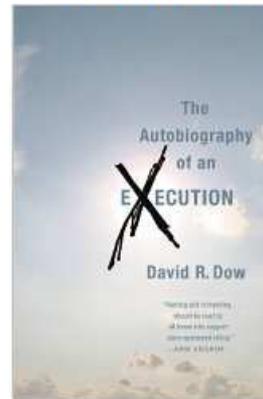
Ines Aubert, April 2014



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David R. Dow is the Cullen Professor at the [University of Houston Law Center](#) and the Rorschach Visiting Professor of History at [Rice University](#). He teaches and writes in the areas of contract law, constitutional law and theory, and death penalty law.

http://www.amazon.com/Autobiography-Execution-David-R-Dow-ebook/dp/B0037VD12S/ref=sr_1_1?s=books&ie=UTF8&qid=1398589144&sr=1-1&keywords=the+autobiography+of+an+execution

At the UH Law Center, Dow runs a death penalty clinic in which law students assist in the representation of inmates facing execution. Over the past twenty years, Dow and his team have represented more than one hundred death row inmates at every stage of their state and federal appeals. He is also the founder and director of Texas's oldest innocence project, the [Texas Innocence Network](#), an organization that uses UH law students to investigate claims of actual innocence brought by Texas prisoners.

The author of six books and scores of scholarly articles, Dow's work also regularly appears in such popular publications as *The New York Times*, *The Washington Post*, *The Houston Chronicle*, and *The Daily Beast* (a full list is available on his [c.v.](#)); and his [TED talk](#) on the death penalty has been viewed more than one million times.

Dow's critically acclaimed memoir, *The Autobiography of an Execution*, was a finalist for the National Book Critics Circle award and the winner of the 2010 Barnes & Noble Discover Award for nonfiction. His most recent book, *Things I've Learned from Dying*, was published in January 2014. www.davidrdow.com