



Good morning, Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee. My name is Pierce Reed and I am the director of policy for the Ohio Innocence Project (OIP), which is part of the College of Law at the University of Cincinnati. Thank you for the opportunity to provide proponent testimony on Senate Bill 101.

I know this bill will bring many people before you, arguing for and against its passage, based on moral, religious, economic, and legal principles. I will be brief this morning and speak to none of those things.

Instead, I focus on the one point that I want you to remember when it comes time to cast your vote: if you maintain the death penalty in Ohio, an innocent person will be executed.

To believe otherwise is to defy logic, experience, and humility. No matter how brilliant our prosecutors, defense lawyers, jurors, and judges may be, and no matter how pure hearted, well intended, and hard working they may be, they are human. And every human makes mistakes.

My professional life is filled with examples of this fundamental fact.

OIP is an organization which investigates and litigates wrongful conviction claims here in Ohio. In 20 years, OIP's work has led to freedom for 42 Ohioans who, despite their innocence, were convicted of heinous crimes and imprisoned for more than 800 years. They include two men who spent four decades in prison for crimes they did not commit. And they include three men who were sentenced to the death penalty, and spared execution only because the United States Supreme Court held that Ohio's former death penalty law, under which they were convicted, was unconstitutional.

Since 1989, 105 Ohioans have been exonerated after being wrongly convicted of crimes they did not commit. They are part of the nearly 3,400 Americans who have been exonerated since 1989 – Americans who collectively lost more than 30,000 years of their lives to prison.<sup>1</sup>

Those exonerations include 136 people who were exonerated from America's death rows. Two of every three of those 136 people are Black or Brown people.<sup>2</sup>

Ten years ago, researchers at the University of Pennsylvania's School of Medicine and the law schools at the University of Michigan and Michigan State University determined that although death sentences are less than one-tenth of 1% of prison sentences in the United States, they accounted for close to 12% of known exonerations from 1989 through early 2012.<sup>3</sup> One of the major reasons for that extraordinary exoneration rate in capital cases is that we spend years reviewing capital cases after the conviction. But even extensive review is not foolproof. Not every error is corrected. And even those that are can come too late.

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<sup>1</sup> See National Registry of Exonerations, accessed Oct. 9, 2023 (reporting 3,394 exonerations to date, with the exonerated people having lost 30,250 years to imprisonment despite innocence), available at: [exoneration](#)

<sup>2</sup> [Exonerations-in-the-United-States-Map.aspx](#) (data showing that of the exonerations from death row, 74 or 54% of the 136 people are Black, 13 or 10% are Hispanic, 2 or 1% were classified as "other", and 47 or 35% are White).

<sup>3</sup> Gross, et als., *Rate of false conviction of criminal defendants who are sentenced to death*, Proceedings of the National Academy of Science, Apr. 28, 2014, available at: [pnas.1306417111](#) (last accessed Oct. 9, 2023).

Indeed, there have been at least 25 posthumous exonerations in the United States, including four men known as the Groveland Four, whom Governor DeSantis of Florida pardoned three days after assuming office in 2019.<sup>4</sup> Exonerations, pardons, and apologies to innocent people can mean a great deal if the innocent person is alive to receive it. They do little for the dead, however.

The question is not whether Ohio will execute an innocent person. The question is when.

The best estimates, based on exonerations, is that somewhere between 2 and 5% of people on death row are innocent. The U.S. Department of Justice reported that at the end of 2019, 2,570 people on death rows in state and federal prisons in the United States.<sup>5</sup> That would mean that somewhere between 50 and 300 innocent people were on death row in America in 2019, and it would mean that there are three to five people on Ohio's current death row are innocent.<sup>6</sup> There is no guarantee that they will join the eleven Ohioans who already have been exonerated from Ohio's death row.

Six of the 11 death row exonerations in Ohio are from cases tried in Cuyahoga County.<sup>7</sup> Three of those men were our clients: Rickey Jackson, Wiley Bridgeman, and Kwame Ajamu, whose names you may recall from testimony during the introduction of this bill.

Much has been written about them in the years since they have gained freedom and is easily accessible. I know Rickey the best of the three men and want you to know what we would have lost had he been executed.

Before Rickey was wrongfully convicted and sentenced to death, he was close to a large and loving family who worried when he joined the Marine Corps and served in Vietnam. By 1975 when he was arrested, he had been discharged for a medical condition and was home in Cleveland to obtain treatment so that he could re-enlist. Before that treatment was completed, he was arrested for murder. He had never been convicted of a crime before he was sentenced to death. It should give us all pause to recognize that Rickey was willing to sacrifice his life in service to this country during war yet returned to his country only to be falsely accused of murder and almost executed by the very government to which he had sworn his allegiance and given his service.

On November 21, 2014, 39 years, three months and nine days after Rickey Jackson was convicted, he was released. At that time, he had spent the longest time in prison of any defendant exonerated in U.S. history. He appeared on national talk shows, he was heralded a hero. But what mattered most to Rickey was the dream of having a family of his own. The joy of his life today is not an expensive home or fame or recognition. It is his beautiful, precocious daughter, Lovely Rose Jackson, whom he shares with his beloved wife, Clarissa.

Rickey's life is a particularly remarkable one, but every life matters.

I leave you where I began: If you do not abolish the death penalty, we will execute an innocent person.

The Ohio Innocence Project urges you to vote favorably on Senate Bill 101.

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<sup>4</sup> National Registry of Exonerations, *Posthumous and Historical Exonerations*, Feb. 8, 2023, available at: [Posthumous&HistoricalExons](#). (last accessed Oct. 9, 2023).

<sup>5</sup> Snell, *Capital Punishment, 2019 – Statistical Tables*, June 2021, available at: [bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cp19st.pdf](#) (last accessed Oct. 9, 2023).

<sup>6</sup> In August 2023, Ohio's Department of Rehabilitation and Corrections reported 121 people on death row, see [August+2023+Fact+Sheet](#). Two percent of 121 is 2.4 and five percent of 121 is 6.05.

<sup>7</sup> Death Penalty Information Center, *The Innocence Epidemic* (Feb. 2021), available at: [the-innocence-epidemic](#) (last accessed Oct. 9, 2023).