

# Proposal for a Posthumous Exoneration Project

## January 18, 2024

### Introduction

The [Civil Rights & Restorative Justice Project](#) (CRRJ), housed at the Northeastern University School of Law and operating under the umbrella of the [Center for Law, Equity and Race](#), conducts research into racial brutalities of the criminal justice system in the mid-twentieth century. For many years we have investigated cases of Jim Crow-era racially motivated killings to inform the public on the nature and legacy of the country's history of anti-Black violence. Since its founding in 2007, CRRJ has prioritized restorative and reparative efforts for impacted families and communities.

In 2022, CRRJ launched the [Burnham-Nobles Digital Archive](#), one of the most comprehensive digital collections of historical homicidal racial homicides in the US, and home to more than 1,000 case files. The archive offers users the opportunity to learn how racial violence damaged the lives of African Americans, defined legal rights and shaped local and national politics during the Jim Crow era.

In keeping with its broad mission to address these historical racial wrongs, CRRJ proposes this Posthumous Exoneration Project (PEP). The Project will focus on racialized capital punishment cases and the related legal, cultural, and political histories. CRRJ proposes to work with external partners to obtain posthumous relief for the families of individuals wrongfully executed by the State where racism played a significant role in the resulting execution. The project will, we hope, create a national model for civil rights-based posthumous clemency that could then be applied across the country, thereby expanding models of redress for historical wrongs and, as well, informing the public reckoning with this devastating history of state lethal violence.

Historically, posthumous exoneration, in the context of racist prosecution, has seen increased usage as communities have pressed to remedy these egregious miscarriages of justice:

- Scottsboro Boys, 1931—Alabama, 2013
- Alexander McClay Williams, 1930—Pennsylvania, 2022
- George Stinney, 1944—South Carolina, 2014
- The Groveland Four (Ernest Thomas, Charles Greenlee, Samuel Shepherd, and Walter Irvin ), 1949—Florida, 2019
- The Martinsville Seven (Fred Hairston, Jr., Booker T. Millner, Howard Lee Hairston, James Luther Hairston, John Clayborn Taylor, Francis Desales Grayson, and Joe Henry Hampton), 1949—Virginia, 2021
- Lee Arthur Hester, 1961—Illinois, 2019
- *See also:* [The case of John Henry James](#), 1898 – Virginia, 2023

CRRJ seeks to expand its partnership with the [Law Firm Antiracist Alliance](#) on the Posthumous Exoneration Project.

## **Progress to Date**

### Posthumous Clemency Law

LFAA produced a comprehensive report on the status of posthumous clemency law and procedure in the 50 states. This report is an invaluable asset to the planning process.

### Case Identification

CRRJ has generated a list of 43 initial cases, representing 47 defendants; each is a candidate for posthumous exoneration or pardon. Annotations to the list provide details about the case and the defendants. A dedicated Dropbox file contains documents pertinent to the cases on the list.

### Current Cases

CRRJ has undertaken three posthumous exoneration cases:

1. **George Stinney**, a 14-year-old child, was executed by South Carolina in 1944 on a charge of murder. CRRJ, along with South Carolina attorneys, successfully pursued a judicial exoneration before a state court judge in 2014.
2. **Joe James** was nineteen years old when he was accused of the murder of Clergy Ballard, a white man, and the attempted assault of Ballard's sixteen-year-old daughter. Joe James was sentenced to death by an all-white jury in Springfield, Illinois in 1908 after a trial held in the wake of the 1908 Springfield Race Riot, an event that followed on the heels of James' arrest.

In January 2023, CRRJ, in partnership with the [Center on Wrongful Convictions](#) at Northwestern University School of Law, petitioned the Illinois Board of Pardons and Paroles for a posthumous clemency for Joe James. In April 2023, the petition was argued before the Board in Chicago. The Board has yet to make a recommendation to Illinois Governor J.B. Pritzker, who will ultimately decide on clemency.

3. CRRJ is pursuing a posthumous exoneration for **Tommy Lee Walker** in Dallas, TX. Also nineteen years old at the time of his arrest, Tommy Lee Walker was convicted of the 1953 murder of Venice Loraine Parker in Dallas County. The lead police prosecutor and investigator on the Walker matter, Captain Will Fritz, was a known KKK member. The case was tried by Henry Wade, a notorious and long-serving Dallas district attorney. Walker was executed in May 1956.

Chris Fabricant, director of Strategic Litigation at the Innocence Project and author of *Junk Science and the American Criminal Justice System*, brought the Walker case to CRRJ's attention. Since 2023, CRRJ and Innocence Project have represented Tommy Lee Walker's son, Ted Smith, in the matter. Our team is currently in conversation with Cynthia Garza, head of the Dallas County Criminal District Attorney's Office Conviction Integrity Unit. We have entered into a Cooperative Review Agreement with the Unit.

### Potential Partners

CRRJ has engaged with several organizations whose programming on posthumous exonerations aligns with its own:

- National Registry of Exonerations, University of Michigan Law School
  - The National Registry of Exonerations ([NRE](#)) is housed at the University of Michigan Law School and cosponsored by the Michigan State University College of Law and the University of California Irvine Newkirk Center for Science and Society. CRRJ has sought the advice and counsel of NRE, relying heavily on the experience of Professor Samuel Gross. NRE’s site contains a [collection](#) of historical and posthumous executions. Gross and his team have provided advice on case selection strategies. They urge us to collaborate with forward-thinking CIU offices.
  
- The Innocence Project, New York
  - Since the end of 2022, CRRJ has been in close partnership with attorneys at IP, including our co-counsel on the Tommy Lee Walker case, Chris Fabricant and Lauren Gottesman. Attorney Fabricant and his team offer the potential for connection with the IP projects across the U.S. Attorney Fabricant and his team had worked with the Conviction Integrity Unit in Dallas, and they could be helpful connecting CRRJ and the LFAA to other CIUs.
  
- Center on Wrongful Convictions at Northwestern University School of Law
  - The Center on Wrongful Convictions ([CWC](#)) has handled matters leading to the exoneration of more than forty innocent men, women, and children from states around the country. It receives thousands of inquiries a year. From 2021 through 2023, CRRJ partnered with the CWC Clinic, led by Professor Steven Drizin, on the Joe James matter. Along with Drizin’s clinical team, CRRJ filed a petition for executive clemency with the Illinois Board of Pardons and Paroles in 2023.

## **Future Activities**

This list of cases should be assessed and then prioritized and sorted. We could then create teams for the priority cases, drawing from LFAA and CRRJ.

Drawing on CRRJ’s casework to date and the LFAA report, several considerations could guide our case selection and litigation strategy.

### Partnership with Conviction Integrity Units

We should consider cases that could generate partnerships with selected CIUs in “friendly” jurisdictions. A significant number of cases are from Dallas County, where we have a relationship with the CIU. The NRE has mentioned other possible CIU partners – entities that NRE has worked with. Of particular interest would be CIU offices in Philadelphia, Orleans Parish, Indianapolis, Nashville, and Bexar County. Additional research should surface other prospects.

### State-specific Procedural Methods (Executive Clemency Petitions, e.g.)

We could select compelling cases and proceed in accordance with the guidelines set forth in the LFAA manual. While, unsurprisingly, procedures vary from state to state, typically the states require submission of a clemency petition to review boards that make recommendations to the state’s chief executive officer. In a few states, most prominently Alabama, specific laws and regulations govern applications for posthumous review of state sentences.

### Family Involvement

To ensure that the PPP remains centered on impacted community and restorative justice, we should involve all interested living family members in all phases of these processes.

### **Resources**

CRRJ will seek funding to support a staff attorney to direct the program.

### **Timetable, Year 1**

Jan-Mar 2024 - case review and selection; develop partnerships

April-June – complete genealogical research; identify families; assign cases

June-Dec 2024 – enter partnership agreements; file cases

### **Conclusion**

CRRJ enthusiastically invites a partnership with LFAA on a Posthumous Pardons Project. We believe that together we could generate a national model for posthumous clemency, refining such a tool so as effectively to build a comprehensive record about historical racialized criminal convictions and exemplify reparative practice. We propose collaborations between CRRJ and LFAA attorneys, and other organizations across the country, and we suggest pursuing CIUs in promising jurisdictions. We think such a project could be fully launched and resourced by the end of the year.