

STORYTELLING – written for web content for <http://letdavidlive.org/>

THE DAVID LEE POWELL STORY

In the early morning hours of May 18, 1978, Austin police officer Ralph Ablanado pulled over a red Mustang on a minor traffic violation. The car was missing a rear license tag, and the driver, Sheila Meinert, was driving without a license. Ablanado called to run a check on Meinert and her boyfriend David Lee Powell, the owner of the car, but the computer system was down. He let them go, but within minutes he was radioed that Powell had some outstanding misdemeanor warrants. He pulled the Mustang over again, got out of his unit and approached the car. Before the night was over, Ablanado would be dead.

Early years

David Lee Powell was born in Texas on January 13, 1951. His family were devout Catholics, and were well known & respected in their rural community. As a boy, David excelled in school, earning high marks in all his subjects. He was liked and remembered by teachers even as long ago as the 2nd grade. He was remarkable in his gentleness, even refusing to go hunting with his grandfather because he felt shooting animals was cruel. By high school, he had developed into an exceptionally bright and gifted student, with aspirations of becoming a doctor or scientist. He graduated high school at age sixteen as valedictorian. He applied to the University of Texas' prestigious Plan II program, designed for only the best and the brightest. One of the requirements for admission was an essay, in which David wrote how he wanted to become a doctor in order to help people, and he predicted with astonishing accuracy the fall of the Soviet Union, how, when & why. With the highest ever recorded SAT score, David had no trouble being accepted into Plan II.

Austin, Texas in 1968 was a big change from the country life David had been accustomed to. The world was changing, and Austin was the center of political unrest in Texas, with many students joining in the anti-war movement. Along with the movement came the subculture, and taking drugs was not only accepted but almost de rigueur within that society of youthful thinkers & activists. David's sense of righteousness was ignited by the movement, and he was seduced by all the wildness that came with it, including drugs. There was a distinct feeling at the time of the students being divided from the rest of society -- the establishment – and David quickly became a true believer.

College and the counter culture

He left school at age eighteen to embark on a life on the road – a spontaneous decision that led him all over the country, landing in New Orleans. He returned to UT, but discovered that he had contracted hepatitis, and left school again to go home to recover. His family had been running a dairy farm, and it was in financial trouble. David was eager to help, and worked hard round the clock on the farm. He developed a system of milking that would be 30% more productive, and it began to show promise.

David would return to UT and Plan II again, but the life of the subculture proved too enticing, and he left school again. The 60s were over. Along with a sizable chunk of that generation, David got good and lost. He disappeared into the subculture, slipping ever deeper into the world of drugs, becoming addicted to methamphetamine. By 1978, he had a daily IV meth habit.

Struggles with addiction and mental illness

In spite of the common belief in the 70s that methamphetamine was non-addictive, David knew he had developed a serious addiction, and was desperately seeking a way to stop. This was before the age of rehab, and there were precious few resources or safe havens for drug addicts at the time. He went to a doctor who prescribed Cylert, a drug that has since been banned because of its side effects, which included psychosis in some patients.

David would most certainly have been at risk for negative side effects from the drug. He had a family history of serious mental illness. Schizophrenia, depression, and suicides were traced in his family back to the 1700s. A psychiatrist had diagnosed him with schizophrenia, probably beginning to show symptoms in his late teens to early twenties.

Between the street meth and the use of Cylert, the chemical malfunctions going on in his brain must have triggered serious instability. David became unmoored. He began to display extreme paranoia, experiencing vivid hallucinations and uncharacteristic behavior verging on madness. People who encountered him at that time, who had known him well from his time at Plan II, described him as "wild-eyed", "going a million miles a minute", "not making sense". They were disturbed by his behavior, and worried about him. Despite his obvious symptoms, the doctor continued to prescribe Cylert to David in large doses.

"That damn girl"

The fateful night in May 1978 came. David & Sheila were both by that time deep inside a heavy meth addiction, accompanied by a descent into extreme paranoia. They were pulled over with drugs & guns in the car. Shots were fired, and Officer Ablanado was mortally wounded.

Sheila & David tried to flee, but the car had a flat tire, so they pulled into a parking lot. There they were surrounded by police cars, shots were exchanged, a hand grenade was thrown but the pin was not pulled on it so it did not explode. Sheila surrendered, David fled on foot. A huge manhunt was called, with police driving through the streets of Austin, announcing to residents via loud speaker to get down onto the floor, that there was a madman on the loose. Several hours later, David turned himself in to a school guard at Travis High School not far from the shooting.

Both David and Sheila were initially charged with capital murder for the death of Officer Ablanado. After she testified for the prosecution against David, the capital murder charge against Sheila was not pursued. She was eventually convicted of attempted capital murder related to the shootout in the parking lot. She was sentenced to 15 years but was released after serving 4 years.

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David pled not guilty by reason of insanity, but the court refused to acknowledge his drug addiction or mental impairment at the time of the murder. The impact of the tragedy hit the community hard. Officer Albanedo was a decorated officer, and had left behind a grieving widow and two young children. The families on both sides – David's and the Ablanedos, were devastated.

It has never been entirely clear what really happened that night. The first person who came to Officer Abalendo's aid after the shooting asked him who did this. Officer Ablanado responded, "That damn girl". Several times to several other people, Officer Ablanado repeated, "That damn girl" before he died.

Death Row Diplomat

David was convicted of capital murder, and sentenced to die in September 1978. He went to Texas' Death Row, where he stopped eating and drinking. He refused any form of sustenance for 13 days, when they finally took him to Rusk State Hospital for the Criminally Insane. He stayed there for some months, before returning to Death Row.

After settling down in prison, David became a model prisoner. Death Row was then housed at the Ellis Unit near Huntsville, and even though its conditions were terrible by any standards, the inmates did have the opportunity to work at a garment factory, go to the library, and were allowed to socialize to a limited degree. David became known as a kind of diplomat when dangerous situations arose between prisoners, able to defuse a potentially violent outcome. He helped the illiterate learn to read, he counseled those who were clueless to matters of the law, leading them to resources that could help their cases. His personal library was extensive and well-known within the Death Row community, and David shared it enthusiastically, exposing many on the Row to art, culture, and literature they may never had known about otherwise. He became an advocate for the mentally and physically disabled, tirelessly pursuing ways to improve their situations.

He continued to educate himself while behind bars, and engaged in the outside world in any way he could. He became friends with many prominent Texas citizens, including Sissy Farenthold, whose own step-son had been brutally murdered. When a filmmaker, Tassos Rigopolous, decided to film a documentary of Death Row, he featured David as the main interview, because of his compelling descriptions of life there.

While awaiting re-trial at Austin's Travis County Jail, David was chosen to speak to foreign dignitaries who were in the US studying our criminal justice system, via the Austin Pan American Roundtable. He also lectured at St. Edward's University. He did all this while behind bars, of course, via teleconferencing. Also while at County, he came to the attention of the organization Capacity For Justice, and has just recently received their Brother's Keeper humanitarian award for his advocacy on behalf of fellow inmates.

Trials and tribulations

David has gone through three trials, two complete trials plus a third sentencing trial, and numerous appellate and habeas corpus filings. During his third trial, a document was uncovered stating the facts of the case, written by current Travis County DA Rosemary Lehmborg, who was then the first assistant to the DA, Ronnie Earle, at the time of the first trial. This document contained information that could have affected his sentencing, because it strongly implied that his co-defendant, Sheila Meinert, may have also been a shooter. Also uncovered were documents pertaining to Ms. Meinert's parole hearing, with petitions signed by many Austin Police Officers claiming that she had thrown the grenade and fired shots during the shoot-out. These documents had been withheld by the prosecution for all the trials up to that point, when David's last trial was almost over. The papers came too late in this last trial to present to the jury, so they were never presented as part of his defense.

Many of David's supporters testified on his behalf at that trial, including Ms Farenthold, Ronald Hampton (Executive Director of the National Black Police Association), and several prison guards from Death Row who had known David for years. They all attested to his upstanding character and firmly stated that he was no longer a threat to society. David had no history of violence before or since the crime for which he was convicted, and all the testimony proved this to be true.

David was again sentenced to death.

Permanent solitary confinement

Death Row was moved to the Polunsky Unit, a new Supermax prison outside Huntsville. David was sent there after his last trial, and has languished in solitary confinement for ten years, as have all inmates now on Death Row. He has had no human contact in that time, except for guards handcuffing & strip searching him, or doctors examining him. He is not allowed to keep a library, nor any number of books or property, and is kept in his cell alone 24/7. There is no TV, no internet, and very limited visitor privileges. They are not allowed to keep anything personal on view in their cells, including family photos. They are subjected to constant sleep deprivation and the most base level food sustenance. Supermax-type prisons have been proven to create unbearable psychological conditions in prisoners and guards alike, and have been outlawed in many countries as being inhumane.

After 30 years, execution?

In 2006, David filed an appeal with the US 5th Circuit Court of Appeals arguing that his third trial was unconstitutional and unfair because of the concealment of the two-shooter theory supported in Lehmborg's document, and because the protection against Double Jeopardy required that he be granted a whole new trial, not just a new sentencing trial, when the Texas Court of Criminal Appeals reversed his sentence in his second trial but left his conviction in place. In 2008, the 5th Circuit refused to grant him a new trial.

The United States Supreme Court refused to review his case in March 2009. This clears the way for David to be executed by the State of Texas.

David's legal team challenged his conviction and death sentence, asking that the Court of Criminal Appeals consider recently discovered new evidence. The petition was denied, which officially clears the way for the execution of David Powell.

David could be executed within 90 days.

If David had been sentenced to life in 1978, he would have been eligible for release in 20 years. He has now served over 30 years, the last 10 years in solitary confinement. His case has been going on for decades because it is so troubling to the courts.

The Ablanedo family still grieves the loss of Ralph Ablanedo. The community and the police still bear the scars this crime left behind. The Powell family will never recover. The death of David Powell will not change any of that.

We pray that the grievous harm occasioned by the killing of Officer Ablanedo can be addressed without taking the life of David Powell, who has so much still to offer the living.