

## Anatomy of a Wrongful Conviction: The Case of Charles Don Flores

Charles Don Flores has maintained his innocence for more than two decades of confinement on Texas's death row. A Dallas County jury convicted and sentenced him to death in April 1999. Yet no physical evidence has ever linked him to the death of Betty Black, who was shot in her Farmers Branch home on January 29, 1998, during an attempted robbery perpetrated by two males.



One of those males, Richard Childs, a white man, was identified the day of the murder. As it turns out, Childs was the son of a local police officer and had a murky history with local undercover narcotics officers. He committed this crime while he was out on a low bond and had already failed to appear in court on a pending drug case. After Flores was convicted, Childs pled guilty to shooting Mrs. Black as part of a secretly negotiated plea bargain that resulted in a light sentence. His deal did not require him to testify against Flores. Childs was paroled in 2016 after serving less than half of his sentence.

***Meanwhile, Texas courts have refused to consider evidence that undermines the assumption that Flores was Childs' co-conspirator.***

The case against Flores is fraught with many concerning issues:

- **The State Used “Investigative Hypnosis” to Influence the Memory of a Witness:** The Blacks' next-door neighbor, Jill Bargainer, initially described seeing “two white males” with “long, dirty hair” who looked “similar.” She was unable to identify Flores in any of the photo lineups presented to her at the time of the crime—likely because he was not a white male with long hair, but a large Hispanic male with short, shaved hair. After a suggestive hypnosis session conducted by the Farmers Branch Police Department, Mrs. Bargainer later said she was “more than 100% certain” she had seen Flores the morning of the crime. Her identification of him occurred 13 months after the crime, in the middle of Flores's trial in the courtroom when he, the only Hispanic in the courtroom, was seated at the defense table. This so-called “identification,” made in the middle of trial, was the State's only evidence placing Flores at the crime scene.
- **Prosecutors Mistreated Witnesses Favorable to the Defense:** The prosecutors indicted or attempted to indict Flores's elderly parents, his alibi witness, and others to intimidate them and prevent them from testifying.
- **Police Failed to Preserve Crime Scene Evidence:** Police failed to document the chain of custody of key evidence, including a weapon the prosecution claimed for the first time at trial had been used by Flores's co-defendant, Childs. Additionally, police failed to thoroughly investigate the crime scene, allowing evidence to be destroyed or leaving it untested.

- **Police Did Not Maintain Records of Witness Interviews:** Law enforcement failed to make, lost, or destroyed records of witness interviews—including the original statement of the “hypnotized” witness. Only cryptic notes remain showing that she initially described seeing two “white males” both with “long, wavy hair” who looked “similar”—information that exculpates, not implicates, Flores, a large Hispanic man with short, shaved hair who looked nothing like thin, white Richard Childs who had notably long hair.
- **The State Made Undisclosed Deals with Numerous Witnesses, Despite Denying This at Trial:** Although the State denied making any deals with witnesses, attorneys discovered years later that many of the State’s witnesses, as well as Childs, who did not testify, were given substantial leniency in exchange for testifying against Flores or, in the case of co-defendant Childs, keeping his mouth shut.
- **The State’s Trace-Evidence Expert Recanted His Testimony Years Later:** In 2020, the State’s trace-evidence expert from the Dallas crime lab disavowed his own testing and conclusions, which had been developed on the fly *during trial* to support a convoluted, baseless theory that Childs had been at the crime scene with a “bigger gun” than the .380 pistol identified as the murder weapon. (The murder weapon itself was never recovered, only a shell casing and bullet. The State knew that Childs had been arrested with an open box of the *exact* brand of .380 ammunition found at the crime scene—a fact suppressed during Flores’s trial when prosecutors argues that Flores had not only been present but had been the shooter.) The expert’s recent sworn statement notes: “Inferences made by the State in 1999, which my testimony was used to support, have not been, to my knowledge, proven by science.”

### **Part of a Larger Pattern of Injustice**

For two decades, the State suppressed considerable favorable evidence in violation of Flores’s constitutional right to due process. If this evidence had been made available to defense counsel at the time of trial in 1999, the State’s weak circumstantial case could have been dismantled, thereby changing the outcome of the trial. Yet no court has ever agreed to hear the extensive new evidence uncovered since the trial.

The issues in this case are part of a larger pattern of misconduct in the U.S. criminal legal system. From 1989 through 2023, there have been 3,488 exonerations nationwide, according to the National Registry of Exonerations. In that same period, there have been 467 exonerations in Texas alone.

With more than 65 documented exonerations, Dallas County is among the five counties with the most exonerations (and thus the most wrongful convictions). A number of these exonerations have resulted from the work of Conviction Integrity Units (CIU). The first CIU in the country was created in Dallas in 2007 under the leadership of then-District Attorney Craig Watkins. Many of the wrongful convictions that led to exonerations involved flawed eyewitness identification testimony and prosecutorial misconduct, both of which are evident in the Flores case.

For more information about Charles Flores, visit the website maintained by some of his supporters: <https://charlesdflores.com/>. You can also look for updates from TCADP, which has long been following developments in this troubling case: [www.tcadp.org](http://www.tcadp.org).