

Dead Bodies and Live Minds: How Investigating a Real Murder Can Inspire Curiosity in the High School Classroom

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There are lots of reasons why adolescents are drawn to television shows about crime, forensics, and the intersection of the two. The Hollywood characters and intriguing crime-related plot lines, the drama and suspense around motive and planning, the surprises and accountability of forensic science, and the satisfaction in seeing a wrongdoer brought to justice are certainly among those reasons. However, I hypothesize that there is something more fundamental that draws a youth audience to these shows: people like to solve mysteries. Humans, and particularly adolescents, are naturally curious. We like looking at different pieces of a puzzle and figuring out how those pieces fit together. We like using clues, testing assumptions, and coming up with our own hypotheses around motive, execution, and escape in order to move from suspects to perpetrator.

Yet I imagine many educators would be hesitant to recommend that our students supplement their already screen-rich lives with more television. But what if there was a way to combine the appeal and mystery of a criminal investigation with rigorous problem-solving and interrogation practice to develop a gripping classroom activity? How can educators immerse high school students in a real murder case investigation that will require them to draw upon and practice the critical thinking, literacy, and reasoning skill sets so highly valued under the Common Core, the C3 Framework and the 21st Century skills rubric?¹ As an attorney and former high school teacher, I knew that our criminal justice system could provide several rich opportunities that could satisfy all these criteria. This paper outlines one such lesson, which is best suited for 11th and 12th graders.

Case Content: Overview of the Murder and Misconduct

Below, I summarize the basic facts that surround the story of Michael Morton, who is the primary focus of this real-life murder mystery. Over the course of the lesson, these and additional facts from the true story will be gradually presented to students in order to provide them with the background knowledge necessary for understanding the case.

On August 13, 1986, Michael Morton left his North Austin, Texas, home for work by 5:30AM. He returned that afternoon to find his wife Christine brutally murdered and his three-year-old son Eric in the care of a neighbor. Despite finding no evidence linking him to the crime, the local Sheriff and Prosecutor quickly focused on Michael as the likely suspect. In February 1987, Michael Morton was sentenced to life in prison

for the murder of his wife. Morton's son, Eric, was raised by a relative and grew up believing his father had killed his mother. Almost 25 years after his conviction, the real killer was identified and Michael was released from prison. This lesson focuses on what happened between August 1986 and February 1987 that cost an innocent man 25 years of his life and cost others even more.

The story of what happened to Michael Morton, and the police and prosecutor misconduct that led to his wrongful conviction, is well documented.² So, too, is the story of how Morton proved his innocence and the tragic consequences of the police failure to locate the real killer in 1986. With the help of DNA testing on a bloody bandana from the original crime scene, Morton was freed from prison in 2011. The man whose DNA was found intermingled with Christine's blood, Mark Alan Norwood, was convicted of Christine's murder in 2013. Police then used Norwood's DNA to link him to a second unsolved murder, committed 18 months after Christine's. Norwood's trial for the murder of Debra Masters Baker is scheduled to start in late 2015. Like Christine, Debra was a white woman with long brown hair who was attacked

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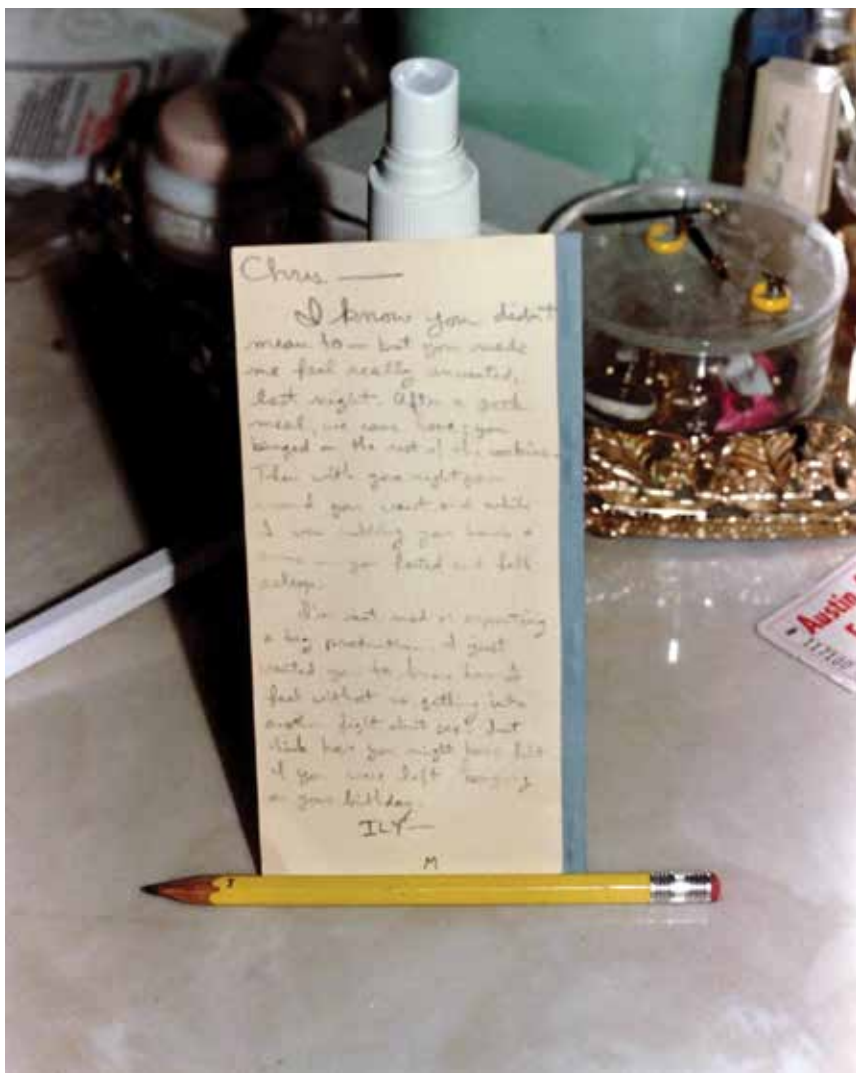


Figure 1: This is the note left by Michael Morton for his wife, Christine, on the morning she was brutally murdered. The prosecution used this note to establish motive. This lesson suggests using the note as a hook to stimulate student curiosity about the activity ahead.

in bed and bludgeoned with a blunt object by a killer who later stacked pillows on top of his victim. Police did not make the connection between the two murders—or even consider Norwood as a suspect in either—until very recently.

While Morton's story is a testament to the worst possible consequences, it has also been repurposed by Morton and others as an engine of good. The media attention, legal filings, and advocacy efforts spearheaded by Morton have led to meaningful reforms in Texas's criminal justice system and have stimulated an ongoing national conversation around wrongful convictions and the integrity of our judicial system. For the first time in Texas his-

tory, as a result of Morton's wrongful conviction, a prosecutor was charged and served jail time as punishment for his egregious misconduct. Beyond the legal ramifications of Morton's case, social studies teachers can use the Morton story as a unique and powerful teaching and learning opportunity in high school classrooms.

The Lesson: Using Michael Morton's Story as a Case Study to Enhance Critical Thinking in Adolescents

I next discuss one way I have successfully structured and taught this lesson in a high school classroom during one 90-minute block period. The lesson

begins with individual and then whole group consideration of one critical piece of evidence as students move from discovery of the murder into the criminal investigation. Students then move into small groups to evaluate and weigh the remaining evidence that will help inform their final recommendation.

Thanks to the wealth of uncovered primary sources and evidence—the same sources and evidence available to the Williamson County police and prosecutor in 1986—students who investigate Christine Morton's murder can follow the same path that was followed by the original crime scene investigators. Educators can capitalize on this case to encourage students to evaluate and examine real clues and textual evidence, develop and explore multiple hypotheses and multiple perspectives, compare and contrast evidence on reliability and relevance grounds, and communicate and synthesize information to conclude whether they would have charged Michael Morton with murder. In addition to the development of these higher-order thinking skills, this inquiry-based lesson will also introduce students to the criminal justice system and the concept of wrongful convictions, provide a rich context for discussing diverse stakeholder interests and ethical obligations, and demonstrate both the potency of the formal advocacy process and the need to foster advocacy and problem-solving skills in the next generation.

In Stage One, I introduce the lesson by asking my students to help me solve a murder. I do not tell them anything about the Innocence Project or that Michael Morton was wrongfully convicted.³ Instead, I tell them that we will be working to solve a real-life crime and that they will be working with the same evidence that the police and prosecutor had when they investigated the original crime. This element of mystery seems to excite students' sense of curiosity, which grabs their attention and ensures that they remain actively engaged in the learning experience.

My students begin their investigation with the note Michael Morton wrote to Christine and left in front of the bathroom mirror before leaving for work on August 13, 1986. This was one of the first pieces of evidence encountered by Sheriff Caldwell and the police. (Figure 1) More importantly, this note was central to the prosecution's case as it purportedly established Michael's motive for killing his wife. I typically project the note, shown on p. 251, on a screen or slide when students first arrive to class.⁴ Without providing any context or background, I introduce a series of guiding questions that prompt students to think more carefully about this very interesting note. I usually allow the students to try and collectively decipher the original note by themselves for a few minutes before providing them with the precise language:

Chris, I know you didn't mean to, but you made me feel really unwanted last night. After a good meal, we came home, you binged on the rest of the cookies, then with your nightgown around your waist and while I was rubbing your hands and arms, you farted and fell asleep. I'm not mad or expecting a big production. I just wanted you to know how I feel without us getting into another fight about sex. Just think how you might have felt if you were left hanging on your birthday. I L Y [signed] "M."

My questions have focused on what students can deduce about who wrote the note, to whom it is addressed, why it might have been written, the nature of the relationship between the author and recipient, and what might happen the next time these two individuals meet.

Students are usually shocked when I share that these two individuals never meet again. To further the dramatic appeal of the case, I usually declare with theatrical emphasis that the "Chris" in the note was found bludgeoned to death in her bed later that morning. The husband, as all adolescent consumers of murder mysteries know, is always the primary suspect when a wife has been killed. I, therefore, propose to my students that we critically consider all the evidence with the goal of answering the threshold question of whether Michael committed the murder or whether someone else committed the murder. Thus, our initial evidence chart asks students to review each piece of evidence and assign it to one of three columns, depending on whether the evidence points to Michael, to someone else, or is irrelevant. Students briefly explain their thinking in the fourth column:

In Stage Two of the lesson, students move from the whole-class grouping into small groups of three to four. Each group is tasked with analyzing a set of evidence and drawing a conclusion as to whether the murder was committed by Michael or someone else. Content for this lesson includes 25 different clues or pieces of actual evidence that have been

identified through a variety of sources, including Michael's book, *Getting Life: An Innocent Man's 25-year Journey from Prison to Peace*.⁵ Each piece of evidence includes a representative picture and a few lines of text. The four examples included here are a bloody bandana, the allegedly missing gun, a comment Michael made to an inquisitive customer, and the medical examiner's conclusion.

Bloody Bandana. The day after the murder, Christine's brother, John Kirkpatrick, found a blue bandana lying by the curb on the property behind the house. The bandana was stained with blood. John immediately turned the bandana over to the sheriff's office.

Gun: Michael liked to hunt and owned seven guns. Michael said his .45 automatic was missing from the house.

The Mirror: When a customer came to Michael's work and secretively asked him, "Where's the guy who beat his wife to death? I heard he works here. You know him?", Michael walked the man over to a mirror, stood next to the man, pointed at his own reflection, and said "Look, there he is."

Medical examiner: Travis County Medical examiner Dr. Roberto Bayardo had done more than 7000 autopsies when he examined Christine's body. He analyzed the state of the food digested in Christine's stomach and initially estimated that Christine had been killed

Finding the Killer: My Evidence Log				
Evidence	Michael?	Someone Else?	Irrelevant?	Why?
1. Note on bathroom mirror	X			Motive - shows Michael was mad at wife
2. Missing gun		X		If it really was stolen, shows how this could be part of robbery attempt
3. bandana		X		Michael not injured or bloody

Figure 2. A partially completed evidence log showing how a student might record conclusions about the first three pieces of evidence.

You and a partner are the public relations team for the police department. Based on your group discussion, compose a tweet to update the public on the status of the Morton investigation.



Figure 3. A sample tweet from a student team.

between 1AM and 6AM on the morning of August 23. He later changed that to state that Christine could not have died after 1:30AM.

To avoid overwhelming my students, I usually do not share all 25 pieces of evidence at once. Possible formats include: (1) Using *evidence stations*, which allow students to move around while examining the differing clues in the case. In their small groups, students have 2 minutes to examine a piece of evidence before moving on to the next station. This offers students an opportunity to practice collaboration skills while critically analyzing evidence; (2) using *subsets of evidence* where each small group is provided with 10 clues. Allowing students to contemplate many clues over a longer period of time (e.g., 20 minutes) allows for deeper discussions about the merits and gravity of individual pieces of evidence; or (3) using a *projector to display each piece of evidence* on one

large screen for the whole class to view together. This method is best suited for classrooms where classroom behavior is a concern, or where teachers are pressed for time because it serves as a structured way to motivate students to be efficient and focused.

In Stage Three of the lesson, I require each small group to reach a conclusion about whether Michael should be arrested as the prime suspect in his wife's murder. To communicate their decisions, each group must assume the role of the public relations team for the Williamson County Sheriff's Department and share their news with the public in 140 characters or less via a Twitter simulation. I provide students with a hard copy of a Twitter template and usually have students move from small groups to pairs on this assignment. In my experience, students have demonstrated great enjoyment in sharing their summative tweets. This exercise is also il-

luminating because the class can see the varying perspectives of their peers and hear the reasoning of different student groups.

Stage Four of the lesson is where the twist, or surprise happens. For reasons that remain unclear to this day, the Morton prosecution and police team did not share all the evidence or information they possessed with the defense team. Additionally, the prosecution did not explore several potential leads or consider evidence that might have contradicted their assumption that Michael had killed his wife. My students are often able to articulate legitimate reasons for why some evidence might not make it to trial. During this analysis phase, students usually identify, in their own words, some variety of three major filters: rules of evidence, prosecutorial discretion, or irrelevance. With some additional prompting, a typical student group will have at least one person sug-

When Good Numbers mean Bad Things

Within the broader population of wrongfully convicted men and women, Michael Morton is an anomaly for several reasons. Most notably, he is white. The vast majority of DNA exonerations—70%—involve people of color, with African Americans making up 63% of those proven innocent. Even considering the overrepresentation of minorities in America's prisons, this 70% figure is disproportionately high. And while at first glance this statistic may indicate that progress has been made—freeing innocent people of color is undeniably a good thing—what the statistic really reveals is quite disheartening. The lopsided percentage of exonerations involving people of color means that innocent people of color are being wrongfully convicted at a rate that grossly exceeds the norm.

To those familiar with our criminal justice system, learning that minorities, and black Americans specifically, are unfairly convicted more frequently than whites likely comes as no surprise. Research on our criminal justice system indicates that this is part of a broader, more troubling reality. In the United States, stark racial disparities exist at every phase of our legal system—from who gets investigated to who gets arrested, from who goes to jail before trial to who goes to jail after trial, and even from who gets to sit on a jury to who wears the judicial robes, to share a few examples. Oftentimes, evidence of the unequal treatment and imbalanced effects of this biased system is starkly obvious. Other times, it can be more subtle and even unintentional, though no less harmful. Such was the case with Ronald Cotton.

On July 27, 1984, in Burlington, North Carolina, a black man armed with a knife broke into Jennifer Thompson's apartment and woke her from a deep sleep. During the horrible sexual assault that followed, Jennifer, a white college student, vowed to remember every detail about her attacker's features, physical attributes, voice, and clothes so that she could tell the police exactly who to look for. Though the attack happened in the middle of the night, Jennifer was resourceful enough to later turn on a series of lights sufficient to illuminate her attacker's face, clothes, and height. After she escaped and fled to a neighbor's house, Jennifer confidently assured the police that she could identify her attacker.

With the help of a police sketch artist and phone calls from concerned citizens, the police moved quickly to narrow the suspect pool. When she was presented with a photo lineup of possible suspects, Jennifer selected Ronald Cotton, a local busboy with a prison record and a history of dating white women, as her attacker. She later confirmed this identification by choosing Ronald during an in-person lineup. At trial, Jennifer again pointed to Ronald as the man who broke into her apartment and attacked her. Although there was no physical evidence linking Ronald to the crime, the jury trusted Jennifer's eyewitness identification. In January 1985, Ronald was convicted and sentenced to life in prison plus 50 years.

Two years later, when Ronald's attorneys secured a retrial on the grounds that a second white female victim attacked on the same night as Jennifer had not made a positive identification

of Ronald, Jennifer stood firm. She was 100% convinced that Ronald was the man who attacked her. And at the second trial, the previously uncertain second victim now spoke confidently about Ronald's guilt. Based on Jennifer's unswerving accusation and the newly added second victim's identification, Ronald Cotton was again convicted, this time to two life sentences plus 54 years. The length of the sentence and the additional eyewitness identification were not the most significant differences between the two trials, however. The presence in the courtroom of Bobby Poole, the man who actually raped both women, was the biggest difference. Yet even when Poole was put on the stand and questioned about the rapes, neither woman recognized him as the real rapist.

Ronald Cotton spent 10 years in jail for crimes he did not commit. With the help of the Innocence Project and DNA evidence preserved by the Burlington Police Department, Ronald was eventually proven innocent and formally pardoned in 1995. Today, Ronald and Jennifer have joined forces and actively campaign for criminal justice reforms to prevent future wrongful convictions. Their story, which they share in their gripping coauthored memoir, *Picking Cotton*, is a remarkable one. It is a story about the power of human forgiveness and also about the perils of eyewitness misidentification, especially in situations involving a victim and perpetrator of different races.

Though eyewitness testimony continues to be considered one of the most persuasive types of evidence, decades of solid scientific research has consistently shown how imperfect human memory and eyewitness identifications really are. Our brains do not function like tape recorders and our memories can be manipulated and are subject to suggestion. Research also shows that we struggle to accurately recall facial characteristics in people of a dissimilar race, making cross-racial eyewitness identification particularly fraught with error. Yet despite these drawbacks, eyewitness identification remains a powerful driver of courtroom convictions—and the leading cause of wrongful convictions. In a system already heavily biased against people of color, the additional toll of another flawed process weighs heavy.

Fortunately, people such as Jennifer and Ronald and groups such as the Innocence Project (www.innocenceproject.org/) are actively working to introduce reforms that would limit the number of misidentifications. Procedures such as blind lineups, where the administering officer does not know who the suspect is, audio and video recording requirements, and more comprehensive instructions to advise the witness that the perpetrator may or may not be in the lineup are common sense and easy to implement reforms. Although introducing policies to minimize the chance of errors during the identification process won't eliminate the racial disparities that permeate our criminal justice system, such policies are a concrete and positive step in the right direction.

Fourteen states and multiple smaller jurisdictions have already begun the reform process; consider asking your students to investigate whether your police department is one of the reformers.

gest that some evidence might not be turned over “just because,” because it might “hurt the case,” or because “the police need to catch somebody.” I use this as a segue into a description of what evidence Michael Morton’s defense team never received.

Working from the entire 25-piece evidence set, I use slides with enlarged pictures of the evidence to identify some of the more important pieces that were either never shared with the defense team or not investigated by the police. I begin by showing the withheld piece of evidence and then use a second slide to superimpose a large “X” mark on the evidence picture. For example, the police never explored the bloody bandana lead or the strange footprint in the Morton’s backyard. Further, the prosecution never turned over the lead investigator’s notes or records of a call from neighbors reporting a strange van in the neighborhood. Three-year-old Eric told his grandmother that a “monster” killed mommy and that daddy was “not there” at the time, but Michael’s lawyers never received this information.

After disclosing these twists in the case, I ask students whether they would change their earlier conclusions, as expressed via tweet, about arresting Michael. The majority of the class usually now concludes that Michael should be arrested and charged based on the limited evidence that was brought forward. This exercise of evaluating a revised set of evidence and revisiting an earlier conclusion is an excellent strategy to bolster students’ critical thinking skills, to probe their reasoning skills, and to allow them a chance to hold multiple perspectives around a shared event.

To conclude this activity, in Stage Five, I reveal to my students that Michael Morton was convicted of murder and spent almost 9,000 days in jail. As a class, we discuss how Morton was able to connect with the Innocence Project, a New York-based legal organization that works to free people who were wrongfully convicted. Through years of efforts, tireless advocacy, and some very fortuitous

evidence preservation, the Innocence Project was able to show that the bloody bandana contained DNA from Christine Morton and another individual (not Michael). The Innocence Project’s efforts to identify this DNA, combined with witness statements around the van, the strange man, and Eric’s “monster” observation, led a Texas court to find Morton innocent of his wife’s murder in October 2011. Morton went on to reunite with his son and to become an advocate for reforming Texas legislation around evidence sharing and prosecutorial standards of conduct.

Conclusion

Although the Morton lesson can be a stand-alone lesson, it can also be a launching point to introduce more complicated or in-depth discussion on a host of topics. Educators in a law or criminal justice class might continue to explore the topic of prosecutorial misconduct and the possible motives and pressures that can influence police and prosecutors to conceal evidence. They can look more deeply at the work of the Innocence Project and cases of other wrongfully convicted men and women in order to help students understand both how our criminal justice system makes mistakes and the corrective mechanisms that exist. Teachers can locate this lesson within a broader unit around the legal system and consider how to advocate for changes that would minimize the risk of innocent people being wrongfully convicted. As an interdisciplinary angle, other subject areas or classes within the school might turn to civic action by exploring options for letter writing or lobbying around causes such as exoneree compensation or evidentiary standards.

Regardless of the direction that educators decide to take as a culminating activity for this lesson, the Morton Murder Case presented here is an optimal example of how teachers and curriculum designers can capitalize on real-life mysteries and puzzles to excite student curiosity, capture and retain a high level of classroom engagement, bolster critical

text reading skills, and encourage collaborative interactions that allow youth to simultaneously practice social skills and analytic reasoning.

Thanks to the support of the Street Law Clinic at Georgetown University Law Center, all materials required to teach this lesson (and many others, including a mock plea bargain activity based on this lesson) are freely available at: <http://tinyurl.com/nfnogb5>. 🌐

Notes

1. The Common Core standards students will engage with during this lesson include CCSS.ELA-Literacy.RH.11-12.1, CCSS.ELA-Literacy.RH.11-12.3, CCSS.ELA-Literacy.RH.11-12.7, CCSS.ELA-Literacy.RH.11-12.9, CCSS.ELA-Literacy.RI.11-12.1, CCSS.ELA-Literacy.RI.11-12.7, and CCSS.ELA-Literacy.W.11-12.1. Additionally, students will repeatedly employ their 21st Century skills (critical thinking, communication, collaboration, and creativity) and each of the 4 dimensions in the C3 Framework (developing questions and planning inquiries, applying disciplinary concepts and tools, evaluating sources and using evidence, communicating conclusions and taking informed action).
2. Michael Morton’s book about his experience is an invaluable read: *Michael Morton, Getting Life: An Innocent Man’s 25-Year Journey from Prison to Peace* (New York: Simon & Schuster, 2014). Suggested secondary source readings include a two-part series that appeared in *Texas Monthly*: Pamela Colloff, “The Innocent Man, Part One,” (Nov. 2012) and Pamela Colloff, “The Innocent Man, Part Two,” (Dec. 2012). Numerous other articles, video and audio are also freely available online.
3. If the lesson will last longer than one class period, teachers may want to consider temporarily substituting a pseudonym for Michael Morton; on several occasions, eager students have googled the case between class periods and prematurely learned that he was, in fact, innocent.
4. I am deeply grateful to Michael’s appellate attorney, John W. Raley, for providing me with a copy of the actual note found by crime scene personnel at the Morton house.
5. Michael Morton, *Getting Life: An Innocent Man’s 25-Year Journey from Prison to Peace* (New York: Simon & Schuster, 2014).

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