

JIM LEITNER  
FIRST ASSISTANT



CRIMINAL JUSTICE CENTER  
1201 FRANKLIN, SUITE 600  
HOUSTON, TEXAS 77002-1901

**PATRICIA R. LYKOS**  
District Attorney  
Harris County, Texas

Public Information Office  
(713) 755-3320

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## **Carl Wayne Buntion Receives the Death Penalty**

### **Statement by District Attorney Pat Lykos**

Justice was served today by a Harris County jury.

Our two prosecutors, Lance Long and Caroline Dozier did a superb job in prosecuting Carl Wayne Buntion, the murderer of Houston Police officer James Irby. It was a very difficult task preparing for trial in a case where the heinous crime was committed twenty-two years ago. We have sent a message; we will bring to justice any predator who slays a law enforcement officer, no matter what.

The Buntion re-trial is the result of two catastrophic failures of the criminal justice system. First, was the early release on parole of inmates from Texas prisons in the 1980's and early 90's as a response to the Ruiz lawsuit that had federal authorities basically running the Texas Department of Corrections.

Buntion had been sentenced to 15 years in the penitentiary for sexual assault of a child in 1989, a crime he committed while he was on parole. He was incarcerated for only one year and one month and released again on parole, May 15, 1990.

At that time the parole board did no risk assessment. It was solely crunching numbers. Officer Irby was cruelly murdered by this cold-blooded killer as a result of this unconscionable negligence in granting parole. Buntion should have still been confined in a cell on June 27, 1990-- instead he was free to slaughter.

The second failure was the court charge prepared in 1991 by this office's appellate division in consultation with other prosecutors' offices across the state. It is a nullification instruction that the United States Supreme Court found was defective because it deprived juries of the means to determine the "moral culpability" of defendants. It has caused the reversal of 12 death penalty cases in Harris County and we anticipate more. This has created an enormous burden on our office.

Buntion was convicted of capital murder and the death penalty was assessed. The Court of Criminal Appeals of Texas, two decades later, ordered the state to retry Buntion on the issue of punishment because of the nullification instruction.

Buntion should have been executed years ago. He would have been except for this erroneous instruction.

These events have been agonizing for the Irby family. Let us pledge in their name that should the state ever seek to reduce the prison population, the authorities will employ the most stringent evaluations and risk assessments. Let it be further pledged that all district attorney's offices in prosecuting endeavor not to inadvertently create reversible error. The job of the district attorney's office is to seek justice.

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