

UNITED STATES OF AMERICA

The illusion of control

“Consensual” executions, the impending death of Timothy McVeigh, and the brutalizing futility of capital punishment

The death penalty cannot be useful, because of the example of barbarity it gives men. *On crimes and punishments*, Cesare Beccaria, 1764.

There is no proof that the death penalty ever made a single murderer recoil when he had made up his mind, whereas clearly it had no effect but one of fascination on thousands of criminals; in other regards, it constitutes a repulsive example, the consequences of which cannot be foreseen. *Reflections on the guillotine*, Albert Camus, 1957.

If...we are to be sincere in our efforts to reduce violence, there is one type of violence that we can with complete certainty eliminate. That is the killing of criminals by the state. The question is, will people learn to respect life better by threat or by example? And the uniform answer of history, comparative studies and experience is that man is an emulative animal. Norval Morris and Gordon Hawkins, US criminologists.

A defendant's voluntary submission to a barbaric punishment does not ameliorate the harm that imposing such a punishment causes to our basic societal values and to the integrity of our system of justice. Certainly a defendant's consent to being drawn and quartered or burned at the stake would not license the State to exact such punishments. *Whitmore v Arkansas*, US Supreme Court, Justice Marshall dissenting, 1990.

The death penalty, guns, violence in society, these cast a large cloud on America's moral leadership. *America's deadly image*, The Washington Post, 20 February 2001. By Felix G. Rohatyn, US ambassador to France, 1997-2000

State killing...leaves America angrier, less compassionate, more intolerant, more divided, further from, not closer to, solutions to our most pressing problems. *When the state kills. Capital punishment and the American condition*. Austin Sarat, Princeton University Press, 2001.

We believe that cold calculated killing by our government, replicating the very act of violence that brought us to pain, dishonors the lives and memories of our beloved. The ritual of executions damages all of us in society, and creates another grieving family. With the focus on putting someone to death, capital punishment makes icons of our murderers, while the lives of victims are forgotten and the needs of survivors are often ignored. *Murder Victims' Families for Reconciliation*, April 2001

Nearly a quarter of a century after a Utah firing squad shot Gary Gilmore and restarted judicial killing at state level in the USA after a decade-long pause, the country is gearing itself up for its first execution of a federal death row prisoner since 1963.¹ Timothy McVeigh is scheduled to be put to death in the United States Penitentiary in Terre Haute, Indiana, on 16 May 2001. If the execution goes ahead, McVeigh and Gilmore will be linked across the years by more than the fact that their deaths ended a *de facto* moratorium on executions. For both of them dropped their appeals and "asked" to be killed by their government.

It would seem an appropriate moment, then, to reflect not only upon the extent to which the USA has departed from the global abolitionist trend since 1977, but also upon the so-called "consensual" execution of some 90 prisoners since Gary Gilmore was killed. These cases – about one in eight of the more than 700 men and women shot, gassed, hanged, electrocuted or lethally injected in the USA in that period – serve to reiterate the cruelty and brutalizing futility of a government policy which toys with human life and responds to killing with further killing.

The USA's relentless pursuit of executions has occurred while much of the rest of the world has moved on to more progressive criminal justice policies. An

example of its growing isolation in an increasingly abolitionist world was evident on 3 April 2001, when Texas carried out the USA's 23rd execution of the year. On the same day, legislators in Chile's Chamber of Deputies voted to abolish the country's 100-year-old death penalty law. Justice Minister José Antonio Gomez said: "This is an historic day, because we have reached something that was unthinkable just a few years ago. We have removed from our codes an irrational and inhuman law."² Also on 3 April, the chief aide to the new Philippines President, Gloria Arroyo, said that there would be no executions during her three-year term, due to end in mid-2004.³

Since 1977, more than 60 countries have abolished the death penalty, one for every 12 prisoners executed in the USA in the same period. Today, as the first US federal execution approaches, more than 100 countries have abandoned executions in law or practice. A measure of the global progress towards abolition can also be found in the mandate of the International Criminal Court. Set up to try the world's worst crimes – genocide, torture, mass killing – the most severe penalty that the Court will be able to impose is life imprisonment, subject to review after 25 years.

Because of the scale of the crime of which he was convicted – the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City in which 168 people were

¹ For more on the federal death penalty, see *Memorandum to President Clinton: An appeal for human rights leadership as the first federal execution looms*, (AMR 51/158/00, November 2000).

² Associated Press, 4 April 2001. At the time of writing, this had yet to become law.

³ *Death penalty effectively suspended in Philippines*, Agence France Presse, 3 April 2001.

killed and more than 500 injured – Timothy McVeigh's case will generate huge public attention. This media scrutiny will be in marked contrast to the scant coverage given to the majority of judicial killings carried out since 1977.⁴ This is a punishment, carried out in the name of all US citizens, that has remained largely remote from mainstream public consciousness.

However, there has been an increase in domestic concern about the death penalty over the past 18 months, particularly over the risk of executing the innocent. As the USA prepares to diverge further from world trends with its first federal execution in nearly four decades, it should be remembered that the fallout from the death and destruction wreaked upon Oklahoma City on 19 April 1995 has already contributed to a diminution of respect for international human rights standards in the USA, and an increased risk

of the execution of wrongfully convicted or wrongly sentenced capital defendants. For the bombing hastened the enactment of the 1996 Anti-Terrorism and Effective Death Penalty Act, designed to speed up executions by placing unprecedented restrictions on the review of state criminal convictions by the federal courts.⁵

Despite the alarming rate of discovery of innocent prisoners on the country's death rows, and the ever-growing body of evidence that the capital justice system is a shameful lottery conducted for no measurable societal benefit, a politician's support for executions has yet to become an electoral liability. In the 2000 US presidential election campaign, both leading candidates made clear their support for capital punishment, including their stated belief, not backed up by any evidence, that it deters crime.⁶ Moreover, the eventual winner of the presidency had overseen a record 152 judicial

⁴ By March, some 1,300 media representatives had expressed their intention to cover the execution. *Media 'city' predicted at execution*. The Oklahoman, 5 March 2001. Every hotel and motel room in Terre Haute has been booked for the week beginning 13 May, and "real estate agents are offering deals on vacant office space to the media. Families living near the prison have been getting calls from media outlets that have dangled money for the temporary use of their homes as news bureaus". *As McVeigh execution nears, frenzy hits Indiana town*. USA Today, 19 March 2001. There are echoes here of the execution of Gary Gilmore. For example: "In a circus-like atmosphere at the Utah State Prison, Monday night, the news media, lawyers, literary agents and movie producers milled about discussing interviews and movie and story deals." *Carnival atmosphere surrounds Gilmore*. Deseret News, 29 November 1976.

⁵ In 1998, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions wrote that the Act had "further jeopardized the implementation of the right to a fair trial as provided for in the International Covenant on Civil and Political Rights and other international instruments". E/CN.4/1998/68/Add.3, Para 149.

⁶ Transcript of presidential debates, 18 October 2000. LEHRER (host): Do both of you believe that the death penalty actually deters crime? Governor? BUSH: I do, that's the only reason to be for it. Let me finish that - I don't think you should support the death penalty to seek revenge. I don't think that's right. I think the reason to support the death penalty is because it saves other people's lives. LEHRER: Vice President Gore? GORE: I think it is a deterrence. I know that's a controversial view, but I do believe it's a deterrence.

killings during his five-year governorship of Texas, many of them in violation of international human rights standards, and a number of them of prisoners whose guilt remained in doubt to the end.

Two men who can prevent a 38-year *de facto* moratorium on federal executions from ending on 16 May 2001 are the president and the prisoner. Each would have to have a change of heart. Timothy McVeigh could choose to resume his appeals against his death sentence. For his part, President George W. Bush, now a leader on the world stage, could announce that he will not allow federal executions to resume at a time when more than half of all countries have turned their backs on this degrading and destructive punishment, and when there is unprecedented domestic concern about the fairness and reliability of the capital justice system.

This changing mood was apparent in Massachusetts on 12 March 2001, when legislators voted 92-60 not to reintroduce the death penalty, compared to a nine-vote rejection on the same issue in 1999 and a tied vote in 1997. *The Boston Globe* wrote: "The 32-vote margin in the Massachusetts House Monday against reinstating the death penalty... is part of an undeniable national trend, and states with frequent executions, like Texas and Oklahoma, have become the outliers... Twenty-five years and 690 executions have exposed capital punishment's essential failure: It is not a deterrent; it is subject to the caprices of race, income, and geography; it brutalizes efforts to build a civilized society; and it risks the awful

injustice of exacting a penalty against the innocent that cannot be recalled."⁷

While the cases of prisoners who drop their appeals will not generally raise issues of actual innocence – although given the number of mentally disturbed prisoners among this group, it is not an impossible scenario – they do highlight two of the death penalty's flaws from *The Boston Globe's* list: its failure as a deterrent and its brutalizing nature. Take Aaron Foust, for example, who refused to appeal his sentence and spent less than a year on death row before being executed in Texas in 1999. In an interview shortly before he was killed, he said: "I've always been ready to die. George Bush and the state of Texas ain't taking nothing away that I wasn't willing to give them. I've been ready to give up my life for a long time."⁸ These are not the words of a man who had been deterred by the death penalty, a punishment which Foust said he supported.

In other cases, the existence of the death penalty appears to have fulfilled the death wish of emotionally disturbed or mentally ill individuals. In 1997, Ronald Fluke walked into an Oklahoma police station and confessed that he had killed his wife and two young daughters earlier that morning. At his 1998 trial he pleaded guilty, waived his right to present mitigating evidence, and asked the judge to sentence him to death. He indicated that he had planned to commit suicide after the murders, but was a "coward". He pursued no appeals against his death

⁷ *Waning penalty*. Editorial, 14 March.

⁸ Associated Press, 28 April 1999.

sentence and was executed on 27 March 2001 – an outcome he described as a “just punishment for my crimes”.⁹

Robert Massie was executed a few hours before Ronald Fluke, also after giving up his appeals. The threat of execution held no apparent deterrent value for him either. He knew the reality of the death penalty, having come within 16 hours of execution in California’s gas chamber in 1967. The execution was stayed by the state’s then Governor, Ronald Reagan, and Massie’s death sentence was commuted in 1972 after the US Supreme Court overturned the country’s death penalty laws. Paroled in 1978, he was back on California’s death row the following year having been convicted under the state’s new capital laws of a murder committed within eight months of his release. Strapped down in the death chamber on the morning of 27 March 2001, Robert Massie helped the execution team find a vein in which to insert the lethal injection needle.

Robert Massie’s execution date was set by a judge after San Francisco District Attorney Terence Hallinan refused to request one, citing his opposition to the death penalty: “In my 35 years of practicing criminal law, I have become convinced that the death penalty does not constitute any more of a deterrent than life without parole, and it has a number of disadvantages. It prolongs closure from the point of view of the victim’s family and friends, resulting in years of appeals, reversals and retrials. It greatly increases the

resources an already strained criminal justice system must devote to disposition of a case. It discriminates racially and financially, being visited mainly on racial minorities and the poor. It places the consequences of error or mistake beyond redemption. And it forfeits the stature and respect to which our state is entitled by reducing us to a primitive code of retribution.”¹⁰

There may be any number of factors contributing to a prisoner’s decision not to pursue appeals against his or her death sentence, including mental disorder, physical illness, remorse, bravado, religious belief, the severity of conditions of confinement including prolonged isolation and lack of physical contact visits, the bleak alternative of life imprisonment without the possibility of parole, pessimism about appeal prospects, a quest for notoriety, or simply as a way for the prisoner to gain a semblance of control over a situation in which they are otherwise helpless.

Two weeks before his execution, Robert Massie wrote of his decision to drop his appeals: “Soon I will be dead. Early on the morning of March 27, the state of California will flood my veins with a lethal cocktail of sodium pentothal, pancuronium bromide and potassium chloride. Death will follow swiftly. I could live for several more years. I voluntarily abandoned federal appellate review of California’s judgment of death. Many have labelled this suicide. It is not. I did not ask the district attorney to charge my case as a capital crime. I did not

⁹ *Fluke says depression led to slaying of wife, daughters.* Tulsa World, 25 March 2001.

¹⁰ *Why the DA would not request an execution date.* San Francisco Chronicle, 14 March.

persuade a jury to recommend the death penalty. I did not ask the trial judge to impose the death penalty. I will not push the plunger that injects poison into my bloodstream. These are acts of the state of California on behalf of you, "The People". It is preposterous to call my death at the hands of the state - whether now or later - an act of "suicide". Even if I were to win on appeal, I will never again see the outside of prison. I have lived in prison most of my adult years, nearly 30 on Death Row. I am a rational man. I do not consider forgoing the raptures of another decade behind bars to be an irrational decision."¹¹

Robert Massie's reasoning contrasts to that of, for example, Pernell Ford, who was executed in Alabama's electric chair on 2 June 2000 after dropping his appeals. During his 16 years on death row for a crime committed when he was 18, Pernell Ford had periodically given up his appeals, only to resume them again when his mental illness, including schizophrenia, subsided. He had suffered mental illness from the age of six, and during his adolescence had attempted suicide several times. On death row, where he also tried to kill himself, Pernell Ford claimed that he was able to transport himself anywhere on earth, by a method he called "translation". He stated that one of his first "translations" from his cell was to India, where he now had a number of wives. He claimed to have hundreds of thousands of wives in other countries, and to have millions of dollars in a Swiss bank account, which

would support his wives and children after his execution. He said that when he died he would become the Holy Spirit and sit on the left hand of God, and that he had already visited heaven in an earlier "translation".

Rational or irrational, a decision taken by someone who is under threat of death at the hands of others cannot be consensual. What is more, it cannot disguise the fact that the state is involved in a premeditated killing, a human rights violation that is a symptom of a culture of violence, not a solution to it.

Whether or not a prisoner who "asks" to be executed is deluding himself or herself about the level of control they have gained over their fate – after all, they are merely assisting their government in what it has set out to do anyway – the state is guilty of a far greater deception. It is peddling its own illusion of control: that, by killing a selection of those it convicts of murder, it can offer a constructive contribution to efforts to defeat violent crime. In reality, the state is taking to refined, calculated heights what it seeks to condemn – the deliberate taking of human life.

After the 1981 execution in Indiana of Steven Judy, who dropped his appeals and asked to be executed, one commentator wrote: "By killing criminals – turning their executions into symbols – the state promotes public hopelessness. It adopts the philosophy of murderers, as in the expression of despair uttered by Judy two days before his execution: 'If society is not ready to help or correct people like me, then they might as well go ahead and do away with us.' The criminal justice system agrees: Nothing can

¹¹ *Fixin' to die. Let my death give life to a challenge of California's machinery of execution.* Robert Massie. San Francisco Chronicle, 14 March.

be done about these people, it says, except destroy them, like stray dogs at the pound. But this is what the murderers once said to their victims: I can't deal with you any way except violently. The twisted mind of the murderer is matched by the twisted logic of the state: "Let's kill people who kill people to show that killing people is wrong".¹² Two decades on, the majority of US politicians have yet to find the political courage to acknowledge the brutalizing absurdity of this policy and to seek to educate public opinion towards a different approach to criminal justice.

Such an education program might, for example, highlight evidence that the death penalty, far from having any special deterrent value, may actually increase the number of murders. Perhaps such evidence should not be surprising given that executions carry, with an official seal of approval, the message that violence is an effective and appropriate response to a problem, and killing an acceptable response to killing. That is the same reasoning said to lie behind the carnage in Oklahoma City on 19 April 1995.¹³

¹² *Should Steven Judy have lived?* Colman McCarthy, Washington Post, 15 March 1981.

¹³ All 12 jurors at Timothy McVeigh's trial agreed to the existence of the following factors in the case: that McVeigh believed that the federal government was responsible for the deaths of the more than 70 people who lost their lives at the branch Davidian religious sect in Waco, Texas, in 1993; that he believed that federal agents murdered Sammy Weaver and Vicki Weaver near Ruby Ridge, Idaho, in 1992; that he believed that "the increasing use of military-style force and tactics by federal law

In the case of Timothy McVeigh, some have already expressed concern that his decision to drop his appeals is an attempt to turn himself into a martyr figure, and that his execution could lead to retaliatory acts of anti-government violence by individuals who share his political beliefs. In its 1989 report on the use of capital punishment worldwide, Amnesty International, citing examples, noted that "executions for politically motivated crimes may result in greater publicity for acts of terror, thus drawing increased public attention to the perpetrators' political agenda. Such executions may also create martyrs whose memory becomes a rallying point... For some men and women convinced of the legitimacy of their acts, the prospect of suffering the death penalty may even serve as an incentive. Far from stopping violence, executions have been used as the justification for more violence...".¹⁴ More recently, a former member of the USA's National Security Council wrote of the risk that executing people who commit acts of political violence may incite further violence.¹⁵

enforcement agencies against American citizens threatened an approaching police state"; and that McVeigh's belief that "federal law enforcement agencies failed to take responsibilities for their actions at Ruby Ridge and Waco and failed to punish those found responsible added to his growing concerns regarding the existence of a police state and a loss of constitutional liberties."

¹⁴ *When the state kills... The death penalty: a human rights issue.* Amnesty International, 1989.

¹⁵ *Execute terrorists at our own risk.* New York Times, 28 February 2001. By Jessica Stern, a lecturer at Harvard's Kennedy School of Government who served on the National Security Council from 1994 to 1995.

At Timothy McVeigh's trial, one of the defence lawyers urged the jury to vote against execution as "the first step to restore domestic tranquillity". But the prosecutor described this exhortation as "tantamount to almost a terrorist threat. Hey, ladies and gentlemen of the jury, don't give him death because other bad things may happen. That is pure intimidation, and I'm assuming each and every one of you on the jury has the courage to disregard that kind of blatant intimidation".

Perhaps the prosecutor was "just doing his job" under the adversarial system, but his employer, the US Government, should now recall the defence lawyer's appeal to the jury as part of a wider reconsideration of the death penalty. To put it another way, President Bush and his administration should reflect upon evidence, not specific to the McVeigh case, that the death penalty contains within it the potential to generate violence rather than deter it.

Among the cases of prisoners who have refused to appeal their death sentences are a small number who appear to have killed in order that they in turn would be put to death by the state. Such cases are nothing new. Amnesty International's 1987 report on the US death penalty cited clinical studies from the 1970s revealing examples of suicidal murderers: people who are afraid to take their own lives and kill in the hope – subconscious or otherwise – that their own lives will be taken by the state.¹⁶

¹⁶ *Murder and the death penalty and Capital punishment as suicide and murder*, published in the American Journal of Orthopsychiatry, vol 45, No 44,

Thomas Akers had long stated his wish to be executed before he achieved it. In 1987, when he was 17, he was arrested for stealing and sentenced to adult prison. After a few months in custody, he wrote to the sentencing judge, and asked to be put to death in Virginia's electric chair. After being paroled in August 1998, he began wearing a necklace with an electric chair pendant. He told his family that he was going to be executed. In December 1998, he beat a man to death. He demanded the death sentence, and once he got that, he demanded execution. The state granted his wish on 1 March 2001.

Jeremy Sagastegui was executed in Washington State on 13 October 1998 for the rape and murder of a young boy he was baby-sitting and the murder of the boy's mother and her friend. In an interview shortly before his death, Sagastegui said that death "is something I want", and "if the state wouldn't have had the death penalty, those people would still be alive".¹⁷ He had represented himself at his trial two years earlier, rejecting jurors less likely to favour the death penalty, and objecting when the prosecution dismissed a juror who would have automatically returned a death sentence. He offered no mitigating evidence, leaving the jury unaware that he was conceived as a result of a rape, rejected by his mother in infancy and childhood, and subjected to severe abuse as a child, including repeated rape and sexual abuse by his

July 1975. Cited in *USA: The death penalty*, Amnesty International Index: AMR 51/01/87.

¹⁷ *Unrepentant Sagastegui awaits execution for Finlay killings*. Tri-City Herald, 14 June 1998.

stepfather and other male relatives. He was diagnosed with serious mental illness on death row.

On 20 July 1996 in Americus, Georgia, Daniel Colwell walked up to Mitchell and Judith Bell in a car park and shot them both dead. He left the scene, drove to the police station and confessed to the murders. He stated that he had purchased the gun to shoot himself, but "didn't have the nerve to pull the trigger". He had therefore decided to kill more than one person in order to secure his own execution. He said that he wanted to commit suicide and saw "going to the electric chair" as "a way of dying." He repeated this at his trial, and threatened the jurors with violence if they did not sentence him to death. He got what he wanted.¹⁸

Thirty years before Daniel Colwell committed his crime, James French was put to death, the third last person to be executed in the USA before the US Supreme Court overturned the country's death penalty laws in 1972. Already in prison, but unable to summon up the courage to commit suicide, James French murdered his cell mate apparently in order that the state would execute him, which it did on 10 August 1966. Three decades later, Robert Smith, serving a life prison term in Indiana, stabbed a fellow prisoner to death. He fired his lawyers, refused a plea agreement of 50 years

imprisonment and threatened to kill again unless he was given the death penalty. He was executed in 1998 after refusing to appeal, thereby achieving his stated aim of not growing old in prison.

As history repeats itself, as it does with tragic regularity in death penalty cases, state officials must begin to question what sense there is in diverting massive resources to a policy that offers no measurable benefits and may exacerbate the pressing social problem it purports to solve. Those who dismiss cases of suicidal murderers as statistically insignificant for the purpose of informing policy-making, should look beyond such cases and consider evidence of a wider "counter-deterrence" effect.

James French was the last person executed under Oklahoma's old death penalty laws. Research published in 1994 and 1998 concluded that Oklahoma's return to executions in 1990 after a 24-year moratorium was followed by a significant increase in the number of murders committed by strangers.¹⁹ The researchers studied homicide counts between 1989 and 1991 and after taking other factors into account, concluded that the execution of Charles Coleman in 1990 had a brutalizing rather than a deterrent effect. University of Oklahoma

¹⁸ Daniel Colwell initially refused to appeal his death sentence, but after receiving the appropriate medication for his mental illness - schizophrenia and bipolar disorder - he took up his appeals. In 2001, he again sought execution after his medication was reportedly changed. He remains on death row.

¹⁹ Cochran, J.K., M.B. Chamlin, and M. Seth. *Deterrence or brutalization? An impact assessment of Oklahoma's return to capital punishment*. *Criminology* 32, 1: 107-134. (1994). Bailey, W.C. *Deterrence, brutalization, and the death penalty: Another examination of Oklahoma's return to capital punishment*. 36 *Criminology* 711-733 (1998).

sociology professor John Cochran said at the time of the publication of his 1994 research, "What this means is, in Oklahoma, because we killed Charles Troy Coleman, we also killed a random sample of 17 other Oklahoma citizens. We know by the technique we employed, the Coleman execution caused this level of increase."²⁰

With this and other such evidence in mind, and recalling the former US Attorney General's recent statement that she had searched in vain for evidence of a deterrence effect attributable to the death penalty²¹, a question that elected leaders in the USA might well ask themselves is, how many murders has the policy of judicial killing inspired across the country as a whole since Gary Gilmore was shot on 17 January 1977?

In March 2001, Amnesty International put this question to Professor John Cochran, now at the University of South Florida. He responded: "Our findings for Oklahoma have now been replicated for Arizona and California."²² We have a multi-

state analysis of the effects of executions currently underway and preliminary findings seem to indicate a similar pattern. So the answer to your question regarding how many murders has the death penalty inspired since the moratorium against capital punishment was lifted in the late 1970s is a very uncomfortably high number. These figures need to be added to the growing list of innocent persons sentenced to death, including some who were executed despite very serious doubts about their guilt."

The death penalty is a punishment that assumes, through its intended goals of deterrence and retribution, the absolute 100 per cent culpability of the person selected for execution, and denies even minimal responsibility on the part of wider society in that person's crime. In doing so, it distracts attention and resources from alternatives and encourages society to grasp at simplistic solutions to complex social problems.

Many defendants with histories of mental illness have been executed in the USA, some of them after giving up their appeals. Some cases have indicated a failure to treat such illness appropriately before the crime.²³ In Daniel Colwell's case, above, a misdiagnosis of his dual condition of schizophrenia and bipolar

²⁰ *Executions blamed for rise in murders.* The Daily Oklahoman, 25 May 1994.

²¹ US Attorney General Janet Reno said: "I have inquired for most of my adult life, about studies that might show that the death penalty is a deterrent, and I have not seen any research that would substantiate that point". Weekly media briefing, US Justice Department, 20 January 2000.

²² Ernie Thompson. 1997. *Deterrence versus Brutalization: The Case of Arizona.* Homicide Studies 1:110-128. and John K. Cochran and Mitchell B. Chamlin. 2000. *Deterrence and Brutalization: The Dual Effects of Executions.* Justice Quarterly 17:685-706 respectively.

²³ For example, Larry Robison's mother claimed that "if Larry had got the treatment that we begged for for years, five people would be alive today and Larry wouldn't be on death row". See *Time for humanitarian intervention: The imminent execution of Larry Robison*, (AMR 51/107/99, July 1999). Larry Robison, who suffered from paranoid schizophrenia from before his crime, was executed in Texas in January 2000.

disorder allegedly led to drug treatment which exacerbated his suicidal quest. Six years before Colwell's crime, 25-year-old Thomas Baal was executed in Nevada after refusing to appeal his sentence for the murder of Frances Maves. His parents said that they believed her murder would not have happened if their son had received adequate psychiatric help. "He was in mental hospitals until he was 14, and after that he was in and out of hospitals until he was 18... If they would have listened to us for the last 20 years when we asked for help, that woman would still be alive." They said that over the years they had spent more than \$100,000 on psychiatric treatment for their son, but that "when the money ran out, they let him sign out of a mental hospital". The parents said that their pleas for government assistance in getting psychiatric help were ignored.²⁴

The execution of the mentally impaired contravenes international standards. The same goes for child offenders (those who were under 18 at the time of their crimes), the inadequately represented, and foreign nationals denied their consular rights.²⁵ The fact that such an individual

"asks" to be executed does not diminish the violation or lessen the stain on the USA's reputation.

Charles Rumbaugh was the first child offender put to death in the USA following resumption of executions. This mentally ill young man was lethally injected after giving up his appeals. As two Supreme Court Justices wrote, "If not for his illness and his pessimism regarding access to treatment, he would probably continue to challenge his death sentence; but faced with his vision of life without treatment for severe mental illness, Rumbaugh chooses to die... a desperate man seeking to use the State's machinery of death as a tool of suicide."²⁶ This calculated turning of the machinery of the state against a mentally ill child offender was a human rights scandal now rendered even more egregious by the state's failure to mend its ways in the years since. Fifteen child offenders have been put to death since Charles Rumbaugh was executed as the USA has become almost the sole, and by far the leading perpetrator, of this violation of international law.

Few would dispute that the execution of Christina Riggs in Arkansas amounted to anything but the culmination of her own suicide bid. Having killed her two young children in a bout of depression, she injected herself with the same chemical used in executions. She failed to kill herself because she did not understand how to administer it

represent himself at his trial.

²⁶ *Rumbaugh v McCotter*, 1985, denial of certiorari, Justices Marshall and Brennan dissenting.

²⁴ 'If they'd listened, victim would be alive'. Reno Gazette-Journal, 1 June 1990.

²⁵ For example, Alvaro Calambro, a Philippines national with borderline mental retardation and schizophrenia-like symptoms, was executed in Nevada in 1999 after giving up his appeals. He had not been advised of his consular rights after arrest. At the time of writing, Sebastian Bridges, a South African national, was scheduled to be executed in Nevada on 21 April after dropping his appeals. He, too, had not been advised of his consular rights after arrest, and proceeded to

properly. After being found unconscious, treated in hospital, charged and brought to trial, she demanded the death sentence. She got her wish, refused to appeal her sentence, and on 2 May 2000 she was killed by lethal injection experts.

While such executions are sometimes referred to as a form of state-assisted suicide, "prisoner-assisted homicide" would be a more accurate label. For if a death row inmate seeks to commit actual suicide, as more than 50 condemned prisoners have successfully done since 1977, the state will make every effort to prevent it. Gary Gilmore, for one, was twice hospitalized in intensive care after overdosing on drugs in the two months before his execution.

In 1995, Robert Brecheen overdosed hours before his execution. He was rushed to hospital, where he had his stomach pumped, before being returned to Oklahoma State Penitentiary and lethally injected. Similarly, in 1999, Texas death row inmate David Martin Long, who had a long history of mental illness, attempted suicide by drug overdose two days before he was due to be put to death. He was still in intensive care in hospital in Galveston, about 200 kilometres from the Huntsville death chamber, as his scheduled execution time approached. The Texas authorities saw no reason to wait, and in contrast to his 1987 murder trial, when the state had denied his lawyers the funds to conduct a full assessment of Long's mental impairment, it spared no expense to have him killed. He was flown by aeroplane to Huntsville, accompanied by a full medical team to ensure his safe arrival. As he was given the lethal injection, which took nine

minutes to kill him, David Long reportedly "snorted and began gurgling. A blackish-brown liquid spouted from his nose and mouth and dribbled to the floor". This was the charcoal solution that had been used to detoxify his body, only hours before it would be injected with lethal chemicals. The niece of one of David Long's victims, who had come to attend the execution, became distressed at the sight and had to leave the witness room.

In seeking to justify executions, many US politicians have referred to the "closure" that a retributive killing can supposedly bring the family members of the murder victim. They fail to provide any evidence to support this assertion, which moreover raises the question of the other 99 per cent of murder cases which were not considered "deserving" of a retributive execution. Is the state denying "closure" to the relatives of those victims?

A small, but growing number of relatives of murder victims in the USA are speaking out against the death penalty, arguing that an execution represents an appalling memorial for their loved one, compounds the violence, and victimizes another family.²⁷

Bud Welch, whose daughter Julie was killed in the Oklahoma bombing, opposes the execution of Timothy McVeigh or anyone else: "The day Tim McVeigh is taken from

²⁷ A statement on the McVeigh case by one organization of victims' relatives, Murder Victims' Families for Reconciliation, is given at the end of this report. See the MVFR website, www.mvfr.org

that cage in Indiana and put to death is not going to bring Julie Marie Welch back and is not going to bring me any peace or anybody in this nation any peace." Some other relatives of the victims reportedly oppose the execution but are reluctant to speak out.²⁸ While Amnesty International does not question the sincerity of the many relatives and survivors who are reported to believe that Timothy McVeigh's execution will help them in some way, the organization does question how the death penalty can ever meet the impossibly high demands placed on it to offer enduring emotional relief for those who have suffered the agony of losing a loved one to murder.

Opposing the execution of Timothy McVeigh, the archbishop of Chicago said in February, "The promise of closure is a false promise... the heart is not healed by killing somebody".²⁹ The fragility of this promise is perhaps indicated by the reaction of some relatives to the decision by the person convicted of killing their loved one to "consent" to execution. Shortly before Robert Massie was executed in California, a relative of one of his victims expressed her frustration: "I know he wants to die. It

makes me think, if he wants out of the suffering, well, maybe we shouldn't be killing him. Maybe he should just be left there to suffer."³⁰ Similar frustration was expressed by a family member in a case in Oklahoma: "To me, the punishment is being in prison knowing that you might be executed soon. Once he's actually executed, it's over for him."³¹ Timothy McVeigh's decision to drop his appeals has been interpreted by some relatives as the condemned man wresting control over his fate, something that perhaps exacerbates their own sense of powerlessness caused by the loss of their loved ones, and which the death penalty purports to ease.³²

As an organization which works on a daily basis with and on behalf of the victims of human violence, Amnesty International would never seek to belittle the suffering of those who have endured the agony of losing a loved one to murder. The Oklahoma bombing killed 168 people and victimized many more. The 90 prisoners executed since 1977 after giving up their appeals were themselves convicted of killing more than 150 people. Each of these crimes caused immeasurable pain to family and friends. Yet the state's response extended the cycle of

²⁸ For example, *Relatives split by Oklahoma execution*. The Observer (UK), 18 March 2001. "Five other survivors told The Observer they backed Welch, but would not go on record. One woman said: 'I'm sorry to say I've lied in the face of the others. I'm not going to stand up and say "That boy shouldn't die" because they'd be looking to lynch me'".

²⁹ Cardinal Francis George, quoted in *Catholic cardinal voices opposition to McVeigh execution*. Oklahoman, 26 February 2001.

³⁰ *Killer to get wish at last: Death*. Los Angeles Times, 23 March 2001.

³¹ *Survivor: Death isn't punishment*. Tulsa World, 7 May 1997.

³² For example, one relative said "I don't want him to die on his own terms. My grandsons didn't die on their own terms. They died when Tim was ready for them to die." *Oklahoma City bomber asks to be put to death*. Guardian (UK), 14 December 2000.

suffering to more people, namely the loved ones of the condemned. Such as the 61-year-old mother of Gerald Bivins who made an apparent suicide attempt by drug overdose in March 2001, a few hours after she had visited her son for the last time. He had given up his appeals after nine years on death row. Twenty-four hours after mother and son's final meeting, medical technology was keeping her alive in intensive care whilst at the same time killing him in Indiana's lethal injection chamber.³³

President Bush, whose governorship of Texas was indelibly marked by the judicial killing of 152 prisoners, must now decide whether he will allow the federal government to follow this victimizing policy, and how pursuing it can square with his promise to be a president who would "speak for greater justice and compassion".³⁴ Perhaps he should recall not only article 3 of the Universal Declaration of Human Rights – "everyone has the right to life" – but also article 16, which states that "the family... is entitled to protection by society and the State". He could at the same time reflect upon the words of a journalist who witnessed

³³ A priest who witnessed the lethal injection said: "After a couple of minutes of stillness, Jerry coughed hard and seemed to be choking. Some of the witnesses gasped and Jerry convulsed and gagged and strained against the straps. Finally, he stopped and was still. His head was straight and his mouth wide open. I continued to pray; others were sobbing. After about eight to nine minutes, the blinds [on the death chamber window] snapped shut." *A priest's recollection of an execution*. Indianapolis Star, 24 March 2001.

³⁴ President George W. Bush's Inaugural Address, 20 January 2001.

over 50 executions in Texas: "You'll never hear another sound like a mother wailing whenever she's watching her son being executed. There's no other sound like it. It is just this horrendous wail. You can't get away from it. That wail surrounds the room. It's definitely something you won't ever forget."³⁵

Brenda Carpenter's son, Scott Carpenter, was executed in Oklahoma on 8 May 1997 at the same time as Timothy McVeigh was on trial in Colorado. Carpenter, a Native American, remains the youngest person, at the time of execution, to have been put to death in the USA since 1977. He was 22 at the time of his execution. As a 19-year-old, he confessed to the murder, telling police that he did not know why he had done it. He pleaded no contest to the murder. He had no prior record of violence, and an expert witness speculated that he may have had a blackout at the time of the murder, caused by the numerous head injuries he had suffered in his life. The judge sentenced him to death. In a note given to his victim's relatives just before he died, Scott Carpenter expressed his remorse and wrote: "I truly wish I could give an answer to the question of why this crime happened, but I have no answer. I have no answer for myself. This more than anything has troubled me through all my waking hours." His consistent inability to explain the murder suggests that he may not have formed the necessary level of intent in the

³⁵ Leigh-Anne Gideon, former reporter for Texas newspaper, *The Huntsville Item*. Speaking in *Witness to an execution*, National Public Radio, 12 October 2000.

crime alleged by the state to justify its own premeditated killing. What is certain is that the execution provided no answers. It merely perpetuated the illusion of control.

Scott Carpenter's crime was one of about 500,000 murders committed in the USA since 1977. He and the more than 700 others executed during that period, and the more than 3,700 men and women who currently await execution, were selected for death by a capital justice system riddled with arbitrariness, discrimination and error. As the UN Special Rapporteur on extrajudicial, summary or arbitrary executions concluded in 1998, "race, ethnic origin and economic status appear to be key determinants of who will, and who will not, receive a sentence of death."³⁶ In June 2000, the findings of a long-term study were released which concluded that US death sentences are "persistently and systematically fraught with error" that had required judicial remedy from the appeal courts.³⁷ In September, the US Justice Department revealed that it had found significant evidence of geographic and racial disparities in the application of the federal death penalty nationwide.³⁸

³⁶ E/CN.4/1998/68/Add.3, para 148. The Rapporteur's report followed his 1997 mission to the USA.

³⁷ *A broken system: Error rates in capital cases, 1973-1995*, James S. Liebman, Jeffrey Fagan and Valerie West. Columbia Law School, New York.

³⁸ *The federal death penalty system: a statistical survey (1988-2000)*. US Department of Justice. See: *USA: Memorandum to President Clinton*, op. cit.

The phenomenon of prisoners "volunteering" for execution is yet another factor contributing to this lottery. To put it another way, given the rate of reversible error found in capital cases, if the 90 individuals listed in the appendix had pursued their appeals, there is a significant probability that a number of them would have had their death sentences overturned to prison terms by the appeal courts. Perhaps Scott Carpenter could have been one of them, and would be alive today, not yet 30 years old, if he had pursued his appeals.

In the event, Scott Carpenter's execution provided yet another example, if one were needed, to dispel the myth of the humane execution. It took 11 minutes for him to die. A minute after the lethal injection began, he started gasping and shaking. He convulsed, his body arching upwards, and he gasped for air for the next three minutes. A doctor monitored his heart and pronounced him dead seven minutes later. As much as "consensual" executions play into the hands of the state and its desire for quick, quiet and clinical killings, there are numerous examples of prolonged executions among this group of prisoners, as there are among "non-consensual" executions. For example, Michael Elkins gave up his appeals and was executed on 13 June 1997 in South Carolina. Because he suffered from liver and spleen problems, his body had swelled, and it took the execution team about 40 minutes to locate a suitable vein in which to insert the lethal injection needle. They finally inserted the needle into his neck. Elkins tried to assist the executioners, asking "Should I lean my head down a little bit?", as they probed for a vein.

On the same day that Michael Elkins was executed, a jury returned a death sentence against Timothy McVeigh. The state contends that its plan to kill him is not revenge, but "justice". The blurring of these two concepts was already apparent at the trial. The jury had to decide between a death sentence and life imprisonment without the possibility of parole. Either way, the defendant would die in prison. Urging the jury to choose execution, one of the government prosecutors argued that if they voted for life in prison, Timothy McVeigh could enjoy what the victims of the bombing could not: "I mean, that's really what you're granting him, if you give him life. It's the opportunity to experience those great joys, those great pleasures in life that he deprived so many people of: caring about graduation, following a favorite team, listening or hearing about the Super Bowl. I said at the beginning you have an opportunity to do justice, really to correct an injustice. And I question whether or not it is justice for Timothy McVeigh to continue to enjoy the Super Bowl, to follow the Buffalo Bills, to hear about family graduations and births of children and things of that sort." Is this not an illustration of what San Francisco District Attorney Terence Hallinan meant when he said that the death penalty reduces society "to a primitive code of retribution"?

What the Timothy McVeigh case now offers is the possibility for the USA to say that it will no longer allow those who kill to set society's moral tone. Given the huge national and international attention focussed on Timothy McVeigh's impending execution, it provides a singular opportunity for

President Bush to transmit this life-enhancing message to the widest possible audience.

Only hours after the Oklahoma City truck bomb exploded, and even before a suspect was identified, the Clinton administration announced that the federal government would seek the death penalty, bypassing the Justice Department's lengthy procedures for determining which federal defendants will face lethal injection. Nevertheless, the execution of Timothy McVeigh remains a choice, not a foregone conclusion, despite the government's stance so far and despite the fact that the prisoner is refusing to further challenge his death sentence or petition for clemency.

On 19 February 2001, President Bush toured the Oklahoma City National Memorial Center, dedicated to the victims of the Oklahoma bombing. In his address, the President said: "In every family, and in every school, we must teach our children to know and choose the good, to teach values that defeat violence...".³⁹ Judicial killing teaches the opposite. President Bush should not allow federal executions to resume – a first step to leading his country towards abolition of a policy that promotes, rather than undermines, a culture of violence. He can use the case of Timothy McVeigh to announce this in the strongest possible terms.

It would not be a step into the unknown. Scores of countries have already

³⁹ White House News Release. Remarks by the President at dedication of Oklahoma City National Memorial, Oklahoma City, Oklahoma. 19 February 2001.

taken it. Canada, for example, where both the murder rate and public support for the death penalty have dropped markedly since capital punishment was abolished in 1976.⁴⁰

Much reference has been made recently to Timothy McVeigh's reported lack of remorse, including his alleged use of the military euphemism "collateral damage" to refer to the 19 children killed in the Oklahoma City bombing.⁴¹ But as the Irish Commission for Justice and Peace once said: "In executing someone, we rule out irrevocably any possibility, however remote, of subsequent repentance, conversion, or reconciliation; we exclude finally the possibility of moral development and the growth of conscience."⁴²

What Timothy McVeigh's execution, like any execution, is guaranteed not to achieve are any answers to the questions that arise from violent crime. Society will simply have one more dead body on its hands and will have further clouded its conscience. An execution can guarantee nothing else,

whether it be relief from suffering, or a reduction in killing. Instead, it carries with it the potential to create more grieving relatives, diminish respect for fundamental human rights, and generate more violence. Is this the policy of a responsible government?

Urging the jury not to vote for execution at Timothy McVeigh's 1997 trial, one of the defence lawyers said of him, "He is not a demon though surely his act was demonic". For resort to this dehumanizing punishment encourages us to think of Timothy McVeigh as a monster, just as it did with Gary Gilmore, or Aaron Foust, or Scott Carpenter, or Christina Riggs, or Charles Rumbaugh, or Robert Massie, or Steven Judy, or Gerald Bivins, or Michael Elkins, or any of the other thousands of men and women sentenced to death in the USA since 1977. They are not monsters, but human beings. We are killing our own, not because to do so can provide us with any constructive insight into our propensity for violence, but because yielding to that propensity through a policy of symbolic extermination is easier than exploring the alternatives.

If today's criminal justice systems do not sanction the burning of an arsonist's home, the rape of a rapist or the torture of a torturer, it is not because they tolerate these crimes. Instead, it is because societies understand that they must be built on a different set of values that those they condemn.

"Let's do it" were the words uttered by Gary Gilmore moments before the modern era of US judicial killing began at 8.07am on 17 January 1977 in Utah. Twenty-four years

⁴⁰ A recent survey showed 52 per cent support for capital punishment in Canada - down from 69 per cent in 1995 and 73 per cent in 1987. *Support for death penalty plunging*. Toronto Globe and Mail, 16 February 2001. Canada's murder rate was 2.8 murders per 100,000 of population in the year before abolition (1975), and by 1999 had declined to 1.76, a drop of 40 per cent. (Source: Statistics Canada).

⁴¹ For example, *No sympathy for dead children, McVeigh says*. New York Times, 29 March 2001.

⁴² Quoted in *When the state kills*, Amnesty International, 1989. Op cit.

later it is time for the USA to reject the philosophy of the killer and to say: "Let's stop it."

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Amnesty International opposes the death penalty in all cases, and campaigns worldwide for the total abolition of this ultimate cruel, inhuman and degrading punishment wherever it is retained. It is calling on President Bush not to allow federal executions to resume in the USA and to begin to lead his country towards abolition of the death penalty. Join us in appealing to the President to issue an Executive Order declaring a moratorium on federal executions in the United States, under Article II, Section 2, Clause 1, of the US Constitution which gives him the "Power to Grant Reprieves and Pardons for Offenses against the United States".

George W. Bush  
The President  
The White House  
Office of the President  
1600 Pennsylvania Avenue  
Washington, DC 20500, USA  
**Fax: +1 202 456 2461**

**E - m a i l :  
president@whitehouse.gov  
Salutation: Dear Mr President**

**Statement by Murder Victims' Families for Reconciliation Concerning the Execution of Timothy McVeigh**

*The April 19, 1995 bombing of the Murrah Federal Building murdered 168 people, injured hundreds more, devastated Oklahoma City, and tore the heart of our nation.*

*For members of Murder Victims' Families for Reconciliation, and for all those who have a loved one taken from them by homicide, the mass murder of 168 people triggered memories of our own losses. Our hearts know that pain for which there are no words. With the surviving family members of those killed in the Oklahoma City bombing, we share lives that involve a continual healing process. Empty chairs at holidays, thoughts of disbelief and anger that come to mind at unexpected times, and moments of quiet tears are part of our reality as victims.*

*And as victims, members of Murder Victims Families for Reconciliation oppose the death penalty. While we come to this position from many different paths, we all know that killing murderers does not bring back their victims. We believe that cold calculated killing by our government, replicating the very act of violence that brought us to pain, dishonors the lives and memories of our beloved. The ritual of executions damages all of us in society, and creates another grieving family. With the focus on putting someone to death, capital punishment makes icons of our murderers, while the lives of victims are forgotten and the needs of survivors are often ignored. Everyone knows the name of the bomber; few know the names of the 168 who died.*

*Last spring, on the 5<sup>th</sup> anniversary of the bombing, a national memorial was dedicated in Oklahoma City. The dignity and serenity of that sacred ground honors the lives of the victims. At the heart of the memorial is an American elm that somehow survived the bomb blast, and is now known as the survivor tree. That living tree is a symbol of and a tribute to the innocence taken by the bomb's carnage.*

*It is for the lives of our own loved ones that we reject executions as some kind of tribute to victims.*

*On May 16, 2001 in Terre Haute, Indiana, the federal government is scheduled to kill the man convicted of the Oklahoma City bombing, Timothy McVeigh. We oppose the execution of Mr. McVeigh, as we do all executions. Since Mr. McVeigh asked the federal courts to set a date for his lethal injection, a media frenzy has developed that further traumatizes victims. MVFR members and other victims were shocked by the announcement that public schools in Terre Haute are to be closed on execution day. What do we teach our nation's youth when we make a day of revenge into a school holiday?*

*The upcoming execution makes some Oklahoma City bombing survivors feel that they are living in a fishbowl once again, with their private agony a subject for media interviews as it was six years ago when the bombing occurred. There is no recognition on the part of the government of the trauma that the execution is creating for these families and for other homicide survivors. With the entire focus on the death penalty, once again victims are ignored. And, as it often does, the death penalty has divided the surviving families. Those who oppose the death penalty have their pain pitted against the pain of other, pro-death-penalty survivors for the entertainment of a viewing audience.*

*And victims who oppose the execution of McVeigh are isolated, and shunned by some of our top officials.*

*As Murder Victims' Families for Reconciliation continues to provide quiet support for our members and other Oklahoma City bombing victims' families who oppose the death penalty, we remain committed to ending capital punishment and to focusing on supporting programs that prevent crime and promote healing for victims. In the name of our own loved ones who have been victimized by homicide, we renew our call for the federal government to end the cycle of violence: halt the execution of Timothy McVeigh and others facing a death sentence, and give full support and resources to helping the families of victims of homicide.*

**Statement from Bud Welch, who lost his 23-year-old daughter, Julie Welch, in the Oklahoma City bombing.**

*To my friends and fellow abolitionists who will be in Terre Haute for the state sanctioned killing of Timothy McVeigh, or at other protests around the country, I want you to know that my prayers are with you. I believe that a statement should be made.*

*I ask you to be my voice on May 15 and 16, 2001. I urge you to send a clear message to our Government - and to the people of this nation - that what we are embarking on on May 16 is just plain wrong. Our society should not tolerate a government with the power to kill its own citizens. Send that message in whatever way you feel is appropriate, with compassion, with nonviolence, and in peace.*

*When my daughter, Julie, was killed, I joined a "club" that I wish had no members: The price of admission is too high. I know the pain of losing a loved one because of a senseless act of violence. On May 16, 2001, I will stand with other families who have lost loved ones to unnecessary violence, and I will be with Tim McVeigh's family in spirit as they prepare to be victimized in a political event, staged by the Government of these United States.*

*The execution of Timothy McVeigh will not bring back Julie or her colleagues, nor will it end the grieving for any one of the victims of the Oklahoma City bombing. Revenge and hate are the reasons 168 people died that day in 1995. I oppose the death penalty absolutely, in all cases, because in all cases it is an act of revenge and hatred. The killing of Timothy McVeigh, who has halted all his appeals, will be an assisted suicide. It will also make him a martyr in the eyes of those who share his beliefs. We should not be surprised if one or more of his supporters tries to avenge our killing McVeigh. We should ask ourselves: How much killing and how much revenge are we prepared to live through?*

*I fear for our country. We need social change on the death penalty - just as we needed social change in the 1800's with slavery. We moved from abolishing slavery, to granting women the right to vote, to passing civil rights laws. We finally made these necessary social changes and we must take the next step with the death penalty.*

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*The illusion of control: "Consensual" executions..., and the brutalizing futility of capital punishment 21*

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*To the media, I implore you: Respect everyone who is suffering through this ordeal. Please be fair and accurate in your reporting. And please respect me, the other victims families, the survivors, and Tim's family.*

Bud Welch, March 12, 2001

#### **Appendix: "Consensual" executions in the USA since 1977**

There follows a list of prisoners who have been executed in the USA since 1977 after dropping their appeals at some point in the process, some immediately following conviction, others after years on death row and numerous appeals. Some very brief notes are given on the cases.

There are many others on death row in the USA who have given up their appeals only to later resume them or to be ruled incompetent to make such a decision. In Pennsylvania, for example, where all three prisoners so far executed have been "consensual", several other prisoners have come close to execution after giving up their appeals. On 8 November 2000, a federal court stayed the "consensual" execution of Daniel Saranchak minutes before he was due to be killed, and he subsequently resumed his appeals. In May 2000, the execution of Joseph Miller, a mentally retarded brain-damaged prisoner, was stayed. He had reportedly first indicated a desire to be executed after prison staff took away the crayons he had used to draw pictures to send to his children. He had later attempted suicide by overdose on anti-depressant medication. Antuan Bronshtein came within days of execution in Pennsylvania in May 1999 before changing his mind and resuming his appeals. Similarly, in Ohio, where the only execution so far has been consensual<sup>43</sup>, several prisoners have dropped their appeals but later allowed them to continue, including Adbul Hamin Awkal, Derrick Evans, Scott Group, Danny Hill, Stanley Jalowiec and Martin Rojas. In 2000, another Ohio prisoner, Kevin Scudder, wrote to the state Attorney General, "I am begging for your help to get my sentence carried out. I know what I am doing and this is what I want." According to reports, Kevin Scudder attempted suicide as a teenager and was later diagnosed as suffering from paranoid schizophrenia. He will be executed if he is found competent to drop his appeals and assuming that he does not change his mind.

Executive clemency for such prisoners is rare. As far as Amnesty International is aware, only one "consensual" execution has been stopped by executive clemency since 1977. Guinevere García was scheduled to be executed in Illinois on 17 January 1996 for the murder of her abusive husband. The state's then governor, Jim Edgar, commuted her death sentence shortly before it was due to be carried out. Stating that this was not the sort of case that had led him to support the death penalty, Governor Edgar pointed out that there were more than 200 prisoners convicted of multiple killings in Illinois who had not been sentenced to death.

It is notable how many states have resumed judicial killing with the execution of a prisoner who dropped his appeals. Just as the execution of Gary Gilmore was the first in the USA for a decade and in Utah for 16 years, "consensual" executions opened the modern era of judicial killing in Delaware, Idaho, Illinois, Indiana, Maryland, Nevada, Ohio, Oregon, Pennsylvania, Virginia and Washington State. Perhaps these executions have helped to

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<sup>43</sup> Although, at the time of writing, Jay D. Scott was scheduled to be executed in Ohio on 17 April 2001. Scott suffered mental illness for many years, and was diagnosed with schizophrenia in December 2000.

demystify state-sanctioned killing and have made it easier for US society to stomach its modern experiment with the machinery of death.

◦ **1977**

Gary Gilmore

**Utah.** The first execution in Utah since 1960 and the first in the USA since 1967. Gary Gilmore had been in prison most of his adult life, and had also been in juvenile custody between the ages of 14 and 18. The crime for which he was sentenced to death occurred less than four months after he was released from prison. He spent three months on death row, which remains the shortest time by any death row prisoner since. He fought all attempts to stop his execution. He was twice treated in intensive care following drug overdose suicide attempts in the two months before his execution. He believed in reincarnation.

◦ **1979**

Jesse Bishop

**Nevada.** The first execution in Nevada since 1961. Bishop was executed less than two years after his conviction. Before stepping into the gas chamber, he reportedly said to prison officials "This is one more step down the road I've been heading for all my life". In an interview a few months earlier, he said: "I believe the end is inevitable. I think the only thing I can do is make them do it earlier, and I think everybody involved would be better off. I'd be better off, the prison would be better off, my family would be better off.... I feel it's hopeless, other than just legal gymnastics... It's basically this... if you're going to kill me next year, well, go ahead and kill me now. And if you're not going to kill me next year, then commute my sentence now. See? You're either going to kill me or commute my sentence. Well, do one or the other now."

◦ **1981**

Steven Judy

**Indiana.** The first execution in Indiana since 1961. At his trial Steven Judy said to the jury: "You better vote for the death penalty because if you don't, I'll get out and it may be one of you next, or your family... That goes for you too, judge". The 24-year-old said that he would rather die than spend his life in prison. He reportedly broke down and cried when he was visited by his foster parents and their teenage children. His foster mother said afterwards that he "really had a hard time saying goodbye to my kids. He said: 'I thought I was ready for this, but I wasn't". In an interview shortly before his death, he said: "I've got a whole box full of bad memories. Anything good never made an impression on me. I remember things like my mother trying to shoot my dad, and him beating the hell out of her." In his final statement before electrocution, he said: "I don't hold no grudges. This is my doing - sorry it happened."

◦ **1982**

Frank Coppola

**Virginia.** The first execution in Virginia since 1962. Frank Coppola, a former police officer, maintained his innocence of the 1978 murder of Muriel Hatchell. He dismissed his lawyers saying that he wished to spare his family the "tremendous hardship" of further appeals and to save his children from "schoolyard taunts". A federal judge who refused to stay the execution reportedly praised Coppola for "his sincere wish" to die because he did not want to live under his present conditions. At that time, death row inmates were held in Mecklenburg Correctional Center, in solitary cells for 23 hours and 45 minutes

a day. It reportedly took two 55-second charges of electricity to kill Coppola. The second jolt produced the smell and sound of burning flesh, the prisoner's head and leg caught on fire, and smoke filled the death chamber.

o **1985**

Stephen Morin

**Texas.** Former heroin addict. Became religious on death row. Because of the damage caused by his long-term drug use, the execution team took more than 40 minutes searching for a suitable vein in which to insert the lethal injection needle.

Charles Rumbaugh

**Texas.** Charles Rumbaugh was 17 at the time of the crime, becoming the first juvenile offender to be put to death in the USA since 1977. Rumbaugh spent most of his childhood in a series of reform schools and mental institutions. Shortly before the murder of Michael Fiorillo during a robbery in 1975, Rumbaugh had escaped from a mental hospital where he was being treated for manic depressive illness. (By the time he reached adulthood, his body was reportedly covered in scars from suicide attempts and acts of self-mutilation). He dropped his appeals in 1982, although his lawyers persuaded his parents (who had never visited him prison) to file a petition challenging his mental competency. Dissenting against the US Supreme Court decision to uphold a finding that he was competent, two Justices wrote: "Rumbaugh was examined by numerous psychiatrists, and based on their testimony and reports, a Federal District Court found Rumbaugh competent. This conclusion, however, was not based on a finding that Rumbaugh's choice was uninfluenced by mental illness. To the contrary, the court found that Rumbaugh suffered from severe mental illness and that this illness was a major influence on his choice. The courts below relied on a determination that Rumbaugh "logically" chose death because he had become a victim of mental illness, suffering from "frequent bouts of paranoia", "auditory hallucinations", and severe "depression". Rumbaugh seeks death because he knows himself to be mentally ill and has lost hope of obtaining treatment. If not for his illness and his pessimism regarding access to treatment, he would probably continue to challenge his death sentence; but faced with his vision of life without treatment for severe mental illness, Rumbaugh chooses to die...a desperate man seeking to use the State's machinery of death as a tool of suicide."

William Vandiver

**Indiana.** He was sentenced to death in 1984 and dropped his appeals, saying "I see no point in wasting everybody's time. I would wind up doing 45 years [in prison if he won an appeal] and I'm going to die there anyway, so why prolong it? To me, [the execution] would be less than getting a tooth pulled." His execution in the electric chair took 17 minutes, requiring five charges of electricity before he was pronounced dead. A Department of Corrections spokesperson said that the execution "did not go according to plan".

Carroll Cole

**Nevada.** Pleaded guilty, and gave up his appeals, saying he would kill again if he was ever released from prison. Sentenced to death for the murder of Marie Cushman in 1979, he claimed to have killed several prostitutes or women he met



- in bars, in revenge against his mother's abuse of him as a child and her forcing him not to tell his father about her sleeping with other men she met in bars.
- **1986**  
Jeffrey Barney **Texas.** In his final statement, he said: "I'm sorry for what I done. I deserve it. I hope Jesus forgives me."
- **1987**  
Ramon Hernandez **Texas.** Drug abuse brought him into conflict with the law from the age of 13. In an interview shortly before he was executed, he said "Nobody wants to die, but sometimes people have to make a stand. I have a paramount right to represent myself. If I get a stay, I won't be making a stand. Seeing that I'm a human being, it's very important for me not to die. But at the same time, it's important for me to make a stand."
- Elisio Moreno **Texas.** The Texas Attorney General reportedly said of the execution: "He was not afraid. He jumped up on the table with a smile and said he was ready for the rocket to take off so he could finally go home - and he did". Elisio Moreno said: "I'd like to say I'm here because I'm guilty. I have no grudges or anything against nobody. The word of God tells me the wages of sin are death. I'm willing to pay according to the laws of Texas because I know I'm guilty."
- **1988**  
Arthur Bishop **Utah.** A former Mormon missionary convicted of the murder of five children, Bishop gave up his appeals and asked to be executed in the belief that this would help the victims' families.
- **1989**  
William Thompson **Nevada.** In his final statement, he asked for forgiveness from his family and the victims' family members.
- Sean Flannagan **Nevada.** Reportedly confessed to the murder of two men, who he thought were homosexual. He stated that he hated his own homosexuality. He asked for the death penalty, saying that he feared he would kill again. He became religious on death row. In an interview shortly before his execution, he stated that he did not appeal his sentence because he had to pay his debt to society, but maintained that "after giving my life to Jesus, I couldn't hurt anybody again."
- **1990**  
Gerald Smith **Missouri.** According to reports, was regularly beaten by his alcoholic father. Ran away from home at the age of seven, left school at 13, and took to burglary, drugs and alcohol. Received psychiatric treatment in the year before the murder for which he was sentenced to death.
- Jerome Butler **Texas.** Butler, 54, had spent about half of his life in prison reportedly said that if his death sentence was commuted to life, he would be at least 70 years old before he would be released: "What am I supposed to do then? Go live under a bridge? I just want to get it over with."
- Leonard Laws **Missouri.** A federal judge found that Laws' trial attorney had been negligent for failing to present mitigating evidence at the sentencing, including evidence of

severe psychological damage from his experiences in the Vietnam war. He had joined the army at the age of 17. His family said he was a changed person after his service. The Eighth Circuit Court of Appeals reversed the decision. Two US Supreme Court Justices dissented from that Court's decision to reject his appeal, saying that the trial lawyer's performance had been "plainly deficient", particularly in his failure to investigate the evidence that Laws was suffering from posttraumatic stress disorder.

**Thomas Baal**      **Nevada.** Baal had been in and out of mental institutions as a result of suicide attempts, depression, and drug abuse. He attempted suicide twice in the month before his execution for the 1988 murder of Frances Maves. Baal's parents said that Frances Maves would not have been killed if their son had received adequate psychiatric help. "He was in mental hospitals until he was 14, and after that he was in and out of hospitals until he was 18. If they would have listened to us for the last 20 years when we asked for help, that woman would still be alive." They said that "when the money ran out, they let him sign out of a mental hospital". The parents said that their pleas for government assistance in getting psychiatric help were ignored.

**Ronald Simmons**      **Arkansas.** Sentenced to death at two separate trials for killing 14 members of his own family and two other people in 1987. At the end of each trial, Simmons read a brief statement: "It is my wish and my desire that absolutely no action by anybody be taken to appeal or in any way change this sentence. It is further respectfully requested that this sentence be carried out expeditiously... I only ask for what I deserve. Let the torture and suffering in me end...". A fellow death row inmate sought to appeal on the basis that it would be unconstitutional for Simmons's execution to go forward without his having had any appeal court review of the case. The US Supreme Court rejected the appeal, without addressing the constitutional issue, on the grounds that the prisoner did not have the legal standing to argue on Simmons' behalf. Dissenting, Justices Marshall and Brennan wrote: "The Court today allows a State to execute a man even though no appellate court has reviewed the validity of his conviction or sentence... By refusing to address that question, the Court needlessly abdicates its grave responsibility to ensure that no person is wrongly executed".

**James Smith**      **Texas.** Two US Supreme Court Justices dissented from the decision to allow the execution to go ahead: "For the second time within a month [the other being Thomas Baal, above], this Court permits the State to execute a prisoner who has waived further appeals on his behalf when serious doubts remain concerning his mental competence." The dissent criticized the state's procedures for determining competency, saying that the hearing into this issue "seems to have been little more than a non-adversarial, *ex parte* chat among the trial judge, the prosecutor and Smith". Smith had a long history of mental illness. In 1978 he was found not guilty by reason of insanity in a Florida prosecution. In 1981, he attempted suicide and was placed under psychiatric care. In 1985, a Texas court found him not competent to handle his appeal. A psychiatrist concluded that he

suffered from paranoid schizophrenia, "marked by suicidal tendencies and religious delusions." In his final statement, James Smith said: "I myself did not kill anyone, but I go to my death without begging for my life. I will not humiliate myself. I will let no man break me." He then reportedly smiled, winked, and said "Hare Krishna".

Charles Walker

**Illinois.** First execution in Illinois since 1962. Charles Walker had a history of alcohol abuse, dating back to the age of eight. He was sentenced to death for two murders committed during a robbery whilst under the influence of alcohol. He dropped his appeals, saying he was "tired of looking at the [prison] bars 16 hours to 24 hours ad day. Because of equipment failure and human error, Walker suffered excruciating pain during his execution. According to an engineer from the Missouri State Prison who was retained by the State of Illinois to assist with Walker's execution, a kink in the plastic tubing going into Walker's arm stopped the lethal solution from reaching Walker. In addition, the intravenous needle was inserted pointing at Walker's fingers instead of his heart, prolonging the execution.

◦ **1992**

Steven Pennell

**Delaware.** The first execution in Delaware in 46 years. In an interview shortly before his execution, he maintained his innocence, saying that he dropped his appeals to allow his family, particularly his children, to get on with their lives once the media attention surrounding the case had subsided. He had become religious on death row.

◦ **1993**

Westley Dodd

**Washington.** The first execution in Washington since 1963. Westley Dodd chose execution by hanging over lethal injection. In halting his appeals, Dodd wrote: "I must be executed before I have an opportunity to escape or kill someone else". He said he chose hanging, because that was what he did to one of his child victims.

John Brewer

**Arizona.** Had a history of mental problems. As a young child, he was an out-patient in a psychiatric clinic for about three years. His first of several suicide attempts occurred at the age of seven, his last one less than six months before his crime, the murder of his pregnant girlfriend in 1988. Brewer was sentenced by a judge after waiving his right to a jury trial. The prosecutor had decided not to seek a death sentence a few weeks before the sentencing hearing, but presented aggravating evidence at the sentencing hearing in the mistaken belief that the law obliged him to. The judge decided that the aggravating evidence outweighed the mitigating circumstances and sentenced Brewer to death.

James Red Dog

**Delaware.** Spent less than a year on death row. James Red Dog, Native American, was raised in poverty on a Sioux Indian Reservation in Montana, and exposed to alcohol and drugs from an early age, and developed mental problems. He suffered a number of head injuries throughout his life, including a fractured skull caused by his father when he was a child.

- Andrew Chabrol      **Virginia.** Went to the electric chair a year after his conviction.
- David Mason      **California.** David Mason was an unwanted child, whom his mother unsuccessfully tried to miscarry. He was subjected to severe physical, psychological and verbal abuse by his strict fundamentalist Christian parents. He attempted to kill himself at the age of five by swallowing a bottle of pills and setting his clothes on fire, the first of at least 25 reported attempts in the next 20 years. His behaviour from an early age was uncontrollable. He set fires, attacked other children, and at the age of eight was found standing over his baby brother's crib with a knife. His parents reportedly resorted to locking him in a room called "the dungeon", a bedroom with the windows nailed shut. When he was 11 and defecated in his clothes, his mother pinned a baby's soiled nappies on him and made him wear his own soiled underwear on his head. On another occasion, his father allegedly strapped him to a workbench, gagged him and beat him unconscious.
- Michael Durocher      **Florida.** Spent less than two years on death row. Fired his lawyers and dropped his appeals.
- Anthony Cook      **Texas.** Cook said that he had found Christ and was ready to die. His final statement was "I just want to tell my family I love them, and I thank the Lord Jesus for giving me another chance and for saving me."
- **1994**
- Keith Wells      **Idaho.** The first prisoner executed in Idaho since 1957. A year earlier, he had written: "I feel that prolonging my life through years of appeals will only serve to prolong the pain and grief of not only my family members and loved ones but that of the victims' families and loved ones as well. The suffering MUST stop so the healing can begin... The cost, both in monetary and emotional well being, for all concerned, taxpayers, family, friends and victims alike for keeping me confined in a 7' by 14' concrete and steel box year after year is a wasted and irresponsible one. Especially when all that money and energy can be better spent on things that really mean something: Hunger, Poverty, Drug addiction treatment, etc, etc."
- Richard Beavers      **Texas.** His last statement was "I thank you, Lord Jesus, for giving me the courage".
- John Thanos      **Maryland.** The first execution in Maryland since 1961. John Thanos had a long history of mental illness, including schizophrenia-like symptoms. He suffered severe physical and emotional abuse as a child, sustained several serious head injuries over the years and abused alcohol and drugs. He had a history of suicide attempts, the first at the age of 11. He first entered the adult prison system when he was 15 years old, and was allegedly raped and physically assaulted. He spent almost all his adult life in the prison system. In prison he attempted suicide on a number of occasions, including by hanging himself, slashing his wrists and cutting his throat. After his arrest for murder in

September 1990, five months after being released, he confessed to the crime and an intent to be executed as soon as possible. While awaiting trial, he attempted suicide several more times. On one occasion, he swallowed 14 sharpened pencils, 15 spoons, his eyeglasses and a plastic toothbrush sharpened at both ends. He was sentenced to death by a trial judge after he waived his right to trial by jury. Four medical experts concluded in 1994 that Thanos had been mentally incompetent to stand trial or understand his legal options at the time of his trial, and five experts considered that he was incompetent to waive his appeals.

George Lott

**Texas.** A former lawyer, he represented himself at his 1993 trial for killing two prosecutors in a courtroom shooting rampage. Two judges and another lawyer were injured in the shooting. Lott spent less than two years on death row.

◦ 1995

Nelson Shelton

**Delaware.** Sentenced to death in 1993 with two other men, who remain on death row six years after his execution.

Thomas Grasso

**Oklahoma.** Eleven hours before he was due to be executed in Oklahoma in 1993, the New York authorities, under anti-death penalty governor Mario Cuomo, won a federal court order for Grasso to serve his 20-year prison sentence in New York for another murder. Upon hearing that his execution would not go ahead, Grasso reportedly stated: "My whole day is totally ruined. This is giving me a major headache". When George Pataki became New York Governor in 1995, one of his first acts of office was to return Grasso to Oklahoma for execution, as he had said he would do during his election campaign. New York reintroduced the death penalty later in the year. In a final handwritten statement, Thomas Grasso said: "Life without parole is much worse than the death penalty. All jurors should remember this. Attica and Oklahoma State Penitentiary are living hells".

Keith Zettlemyer

**Pennsylvania.** The first execution in Pennsylvania since 1962. At a hearing to determine his competency to drop his appeals, Zettlemyer stated: "I see my execution as an end of suffering to my imprisonment - a blessed, merciful release from all these health symptoms that I'm constantly suffering with." Zettlemyer reportedly suffered from mental illness.

Leon Moser

**Pennsylvania.** As Leon Moser lay strapped down to receive his lethal injection, a federal judge who had earlier tried to delay the execution to establish the prisoner's competency to waive his appeals, attempted to contact the prisoner by phone. The judge's clerk was told that the prisoner did not have a mobile phone, but was not told that there was a phone in the death chamber. The lethal injection proceeded. A few minutes later, the clerk rang back to ask if the prisoner was alive or dead, "because if he is alive, the judge may want to talk to him". The clerk was informed that the lethal injection had begun.

Phillip Ingle

**North Carolina.** Subjected to sexual and emotional abuse as a child. Made several suicide attempts, beginning at age seven. As a young adult, he reportedly shot himself and deliberately crashed his car into a building. Took to

- alcohol and drug abuse as a teenager. Reported to suffer from schizoaffective disorder, and medicated on death row for his mental illness. He was sentenced to death for the murders of two elderly couples in separate crimes. He claimed that he hallucinated that his victims were demons with red eyes.
- Mickey Davison      **Virginia.** Convicted in 1991 of the murder of his wife and two stepdaughters. Pled guilty and allowed no mitigating evidence to be presented at the sentencing phase or on direct appeal. He refused to appeal. He subsequently took up his appeals, but then dropped them again.
- Esequel Banda      **Texas.** Claimed that he committed murder because he had been ordered to do so by the devil.
- **1996**
- John Taylor      **Utah.** Chose execution by firing squad over lethal injection. According to his lawyer, "He didn't want to be put to sleep as though he were some kind of pet being euthanized. He also wanted to make a statement about the death penalty and how cruel it is." Taylor, who cited harsh conditions of confinement and inadequate medical care as reasons for dropping his appeals, maintained his innocence of the crime of which he was convicted, the rape and murder of an 11-year-old girl in 1989. He was poorly represented at trial by a lawyer who had never handled a capital case before.
- Leo Jenkins      **Texas.** First Texas execution to be witnessed by relatives of the victim. Jenkins was on crack cocaine at the time of the murders. Gave up his appeals saying that he did not want to live in prison. In his final statement he said "I'm sorry for the loss of the Kelleys, but my death today is not going to bring their children back. I think the state of Texas is wrong to execute me, there's no way to justify this."
- James Clark      **Delaware.** Reportedly born to a 15-year-old girl who gave him up for adoption to an older couple. In 1994, after serving 22 years of a 30-year prison sentence, he was released against his wishes, apparently telling the parole board that he could not cope with release and asking that his parole be denied. Within a few weeks of his return to his adoptive parents, James Clark had shot them both dead. At his 1994 trial, he asked for the death sentence. After sentencing, he was placed in the psychiatric unit of the prison hospital, where he was prescribed anti-depressant medication and force fed when he refused to eat. After being transferred to the death watch cell in 1996, he attempted suicide. He was placed on "strip suicide watch" in a "ram room" (a cell with a hole in the floor for a toilet, and with no lighting, books, television, radio, or pen and paper where he was stripped naked 24 hours a day). After 30 days in this cell, he was taken before a judge and asked if he wanted to pursue his appeals. He replied that he did not, stating that he "couldn't stand the pain any more".

- Robert South      **South Carolina.** Victim of childhood abuse. Said he could not bear the thought of a life in prison if his sentence was overturned. His appeal lawyer reportedly believed that he was close to achieving that outcome.
- Daren Bolton      **Arizona.** Said he wanted to die rather than spend the rest of his life in prison.
- Michael Torrence      **South Carolina.** Dropped out of school at 11 or 12. Dropping his appeals he said, "I just don't see where spending 20 or 30 more years here is gonna benefit me".
- Douglas Wright      **Oregon.** The first person to be executed in Oregon since 1962. The Governor of Oregon stated that he was "personally and philosophically opposed to the death penalty", but stated that as he was sworn to uphold the constitution of the state, he would allow the execution to proceed.
- Joe Gonzales      **Texas.** Executed nine months after conviction. In a final statement, he wrote: "There are people all over the world who face things worse than death on a daily basis, and in that sense I consider myself lucky. I cannot find the words to express the sadness I feel for bringing this hurt and pain on my loved ones. I will not ask forgiveness for the decisions I have made in this judicial process, only acceptance."
- Larry Lonchar      **Georgia.** He reportedly had brain damage and suffered from bipolar disorder with paranoid tendencies. He had dropped and resumed his appeals several times. On one occasion, he came 30 minutes from execution before the court granted a stay after he had announced his intention to take up his appeals. His execution on 14 November 1996 reportedly took 45 minutes - after the first charge of electricity he was found to still be alive and a second charge was administered.
- Doyle Lucas      **South Carolina.** His lawyer said that he was "filled with remorse" and that Lucas hoped his death would help the victims' family.
- **1997**
- Richard Brimage      **Texas.** Spent nine years on death row. In 1994, the Texas Court of Criminal Appeals granted him a new trial, but in 1996 it reversed the decision and reinstated the death sentence. Soon afterward, Brimage said he deserved to die for his crime. In his final statement before execution, Brimage said: "I have a message to you from God. Save the children. Find one who needs help and make a small sacrifice of your own wealth and save the innocent ones. They are the key for making the world a better place."
- Scott Carpenter      **Oklahoma.** In a letter to the family of the victim, he expressed remorse and an inability to explain the murder: "I truly wish I could give an answer to the question of why this crime happened, but I have no answer. I have no answer for myself. This more than anything has troubled me through all my waking hours." He had confessed to the murder and pleaded no contest. At his

sentencing, an expert witness testified about head injuries that Carpenter had suffered, and speculated that he may have had a seizure at the time of the killing. Scott Carpenter suffered a head injury when he was aged six, when he was struck by a nail in the right temporal lobe. Carpenter suffered four other severe head injuries, the last of which occurred two months before the murder. Numerous witnesses described the defendant as quiet, respectful, cooperative, non-violent and a good student. He had no prior arrests or convictions. He was 22 when executed, the youngest person to be executed since 1977. Two minutes into the lethal injection, he began to make noises, his stomach and chest began pulsing and his jaw clenched. His body reportedly underwent some 18 violent convulsions followed by eight milder ones. He was pronounced dead 11 minutes after the injection began.

- Harry Moore      **Oregon.** Sentenced to death in 1993 for the murder of his parents-in-law, a crime he said he committed because he feared they would take his wife and infant daughter to Las Vegas where the child might fall into a life of drugs and prostitution. There was some evidence that he suffered delusions, claiming to have been a child film star, an FBI informer and a KGB agent.
- Michael Elkins      **South Carolina.** His attorney said the once Michael Elkins had swollen from spleen and liver problems and was uncomfortable in prison, adding that "his life would have been cut short anyway." Due to the swelling caused by his health problems, his execution was delayed for 40 minutes while numerous attempts were made to insert the lethal injection needles. Finally, the first needle was inserted in his neck (attempts to insert it into his arms, legs and feet were unsuccessful), and the second needle was not used. Elkins tried to assist the executioners, asking "Should I lean my head down a little bit?" as they probed for a vein. He was pronounced dead nearly an hour after he had entered the execution chamber.
- Benjamin Stone      **Texas.** Executed 17 months after his conviction for killing his ex-wife and stepdaughter in a fit of rage. He refused to appeal his death sentence, saying "as far as I'm concerned, it's the only way I'll find peace of mind".
- John Cockrum      **Texas.** His father was an alcoholic police officer who became violent and abusive towards his wife and children when intoxicated. Cockrum began using drugs from the age of nine and continued until the crime for which he was sentenced to die, the murder of Eva May during a robbery in 1986. Ten years earlier, when Cockrum was 17, he fatally shot his father during one of his drunken, abusive episodes. The father signed a statement before he died that the shooting had been accidental and the teenager was not prosecuted. In 1993, after six years on death row, John Cockrum attempted to dismiss his lawyers and have his execution carried out without further challenge. A judge found him mentally incompetent to make this decision, on the grounds that his desire to die was brought about by guilt and posttraumatic stress disorder related to the death of his father. Appeals continued, without Cockrum's cooperation. In



1996, a federal court found that he had been denied effective legal representation by his trial lawyer's failure to investigate mitigating evidence for the sentencing phase. However, the state appealed and the 5<sup>th</sup> Circuit Court of Appeals reversed the decision and Cockrum was scheduled for execution. In his final statement, he said, "I would like to apologize to the victim's family for all of the pain I have caused them. I would like to tell my family I love them and I hope to see them again soon. Lord Jesus, thank you for giving me the strength and the time in my life to find Jesus Christ and to be forgiven for all of my sins. Thank you for the changes in my life you have given me, the love and closeness of my family, and my beautiful daughter. Thank you for using me."

◦ **1998**

Lloyd Hampton

**Illinois.** Hampton waived his right to all but one appeal. He reportedly wrote letters to prosecutors promising to kill a jail guard if he were not executed. He was scheduled to be executed on 11 November 1992, but after a visit from his sister and several friends, he instructed his court-appointed lawyer to file an appeal. He did not petition the governor for clemency and asked for no final legal appeals on his behalf. In his final statement, he said: "I offer no excuses for things I have or haven't done, and the reasons are irrelevant. I've been running from myself since I was a small boy in Texas, and my 44 years have been filled with intense anger and rage. I blame no one but myself, and I hope my loved ones will forgive me for the sorrow I have caused them."

Robert Smith

**Indiana.** Sentenced to death for the murder of a fellow prisoner in 1995. He pleaded guilty to the murder following a guarantee that the prosecution would pursue a death sentence. Prior to this arrangement, the prosecutor had not planned to seek the death penalty, but had offered a 50-year prison term in exchange for a guilty plea.

Ricky Sanderson

**North Carolina.** Abused as a child. He confessed to the rape and murder of 16-year-old Sue Ellen Holliman the year after the crime. At the time, the state had charged another man with the murder, and so Sanderson's confession may have prevented a wrongful capital conviction. Sanderson became very religious in prison. He reportedly chose the gas chamber over lethal injection in order that he might be seen to suffer more in the eyes of the victim's family. Asked if he wished to make a final statement before his execution in the gas chamber, he replied "Yeah, about the last meal I do. I didn't take that because I have very strong convictions about abortion and with 33 million babies that have been aborted in this country, died for no reason, I'm dying for a deed I did and I deserve death for it and I'm glad Christ forgave me. Those babies never got a first meal and that's why I didn't take the last, in their memory. I'm just thankful God has been gracious to me. That's it."

Steven Renfro

**Texas.** Executed 10 months after his conviction for killings committed during a gun rampage when he was under the influence of drugs and alcohol. In his final statement, he said: "I would like to tell the victims' families that I am sorry, very sorry. I am so sorry. Forgive me if you can. I know it's impossible, but try."

- Michael Long      **Oklahoma.** Michael Long had dropped his appeals after being on death row for 10 years, over six of them in H-Unit of Oklahoma State Penitentiary. In a report issued in 1994, Amnesty International denounced conditions in H-Unit as amounting to cruel, inhuman and degrading treatment in violation of international standards. The conditions remain largely unchanged in the unit today.
- Arthur Ross      **Arizona.** Said he no longer wanted to live on death row. Following the execution, an editorial in the *Arizona Republic* noted: "Arthur Martin Ross wanted to kill himself and we agreed to help, but since assisted suicide is illegal here we strapped him to a table last week and shot him full of poison and called it an execution. Hardly anybody noticed...Why do we get all worked up about some executions while others pass with hardly anybody noticing? Why can't the most ardent supporters of execution remember the name of Arthur Martin Ross's victim – right now – without looking back in this article?"
- Clifford Boggess      **Texas.** He had been on death row for 11 years and decided not to make any final appeals against his death sentence. He cited his religious beliefs and a belief that he would get no relief from the courts as a reason to consent to his execution. He asked for his execution to be set on his 33<sup>rd</sup> birthday, and a court granted his wish. In an interview before his execution, he said: "I like the idea of leaving this world on the day I came in. There's a nice symmetry to that. It's also the date of my birth into a new life in heaven." He accepted responsibility for his crime, refusing to blame it on his drug and alcohol abuse. "Essentially, I went out and committed these horrible crimes in a country that has a death penalty, in a state that zealously pursues the death penalty, and I am now receiving the legal consequences of my own actions. Nobody made me do it. I voluntarily did the things I did. So no one is responsible but me. No one twisted my arm. No one held a gun to my head." Boggess had become an accomplished painter on death row.
- Stephen Wood      **Oklahoma.** Stephen Wood was sentenced to death for the murder of a fellow prisoner. At the time of the stabbing, Wood was serving a sentence of life imprisonment without the possibility of parole (LWOP) for two other murders. At a hearing to determine his competency to waive his appeals, Stephen Wood reportedly testified that he had long supported the death penalty, and "just because it's me in the instant case, my feelings haven't changed. As a matter of fact, it's strengthened them." He told the judge that execution was more humane than LWOP. Stephen Wood had been diagnosed with paranoid schizophrenia combined with right brain hemisphere dysfunction. At his trial, a mental health expert testified that as a result of his schizophrenia, Wood had a delusion as an avenger, specifically of sexually abused children. The murder victim, a minister, was serving a 40-year prison sentence for molestation and sexual assault of young girls in his congregation.

Roderick Abeyta     **Nevada.** He had been on death row for less than two years. In an interview shortly before his execution, he said: "You would have to be some kind of superhuman not to have some kind of thoughts about it. But I also know I'm not going to let my instinct for survival kick in." He expressed his remorse for the crime and said that it "as a Christian" it would be wrong for him to fight the death sentence, "because to do so would be to avoid accountability". He said that drug abuse from the age of 14 led him into criminal activity and juvenile detention, and that he had been abused by his father as a child, but that they were not excuses for his crimes. He had been in prison for most of his adult life. It took the execution team 25 minutes to find a suitable vein for the lethal injection needle.

Jeremy Sagastegui   **Washington.** In 1995, Jeremy Sagastegui raped and killed a three-year-old whom he was baby-sitting, and shot and killed the boy's mother and her friend when they returned home. He gave a detailed confession to the crime, saying that he had killed the child because he was "going to grow up to be a molester... he didn't deserve to die but... he had no supervision [and] was probably going to grow up to be a murderer". At his 1996 trial, Jeremy Sagastegui acted as his own lawyer. He rejected jurors less likely to favour the death penalty, and objected when the prosecution rejected a juror who would have automatically returned a death sentence. Sagastegui pleaded guilty, and offered no mitigating evidence. The jury was left unaware that he was conceived as a result of a rape, rejected by his mother in infancy and childhood, and subjected to severe abuse as a child, including repeated rape and sexual abuse by his stepfather and other male relatives. He urged the jurors to sentence him to death, and waived his appeals. His mother appealed on the grounds that he was not mentally competent. She raised evidence that shortly before the crime, a doctor had diagnosed him as suffering from schizophrenia and bipolar disorder, and that he had been admitted to a mental facility three months before the crime as a suicide risk and treated for depression. In 1996, a prison doctor diagnosed Sagastegui as suffering from bipolar disorder with depressive episodes and post-traumatic stress disorder. On death row, he was prescribed the anti-psychotic drug Thorazine, as well as the anti-epileptic drug Depakote. In May 1998, another prison doctor had concluded that the prisoner's medication should be continued as he "reportedly decompensates to near psychosis without psychotropics". The doctor concluded his report by noting that a prognosis was "a moot issue considering [Sagastegui's] pending death sentence. For the remainder of his lifetime I find no reason to expect significant change from his current fragile/tenuous reality contact". The US Court of Appeals for the Ninth Circuit stopped the execution on the grounds that substantial doubts had been raised as to Sagastegui's competency. However, the US Supreme Court lifted the stay without comment. In an interview shortly before he was put to death, Sagastegui said: "I can't explain what death is, but it's something I want", and "if the state wouldn't have had the death penalty, those people would still be alive".

◦ 1999

- Wilford Berry      **Ohio.** The first execution in Ohio since 1963. Wilford Berry suffered a childhood of extreme sexual and physical abuse. His first attempt at suicide occurred when he was aged 11, the first of 11 such attempts. At 14 he was diagnosed as suffering from severe schizophrenia, but received inadequate treatment. At 19 he was sentenced to six years in prison for car theft in Texas. While incarcerated, he was raped by another inmate and attempted suicide. Governor Taft, who was reported to have received some 4,000 appeals to stop the execution and said that he felt compassion for Berry because of his "extremely unfortunate life circumstances", denied clemency. The execution was delayed for about 20 minutes because of problems inserting the lethal injection needle into Berry's right arm.
- James Rich      **North Carolina.** Pleaded guilty and represented himself at his sentencing. Reportedly had a low IQ (81), a history of mental illness, including schizophrenia and depression, and suffered an abusive childhood. He reportedly had a history of suicide attempts; when he was 12 years old, he stood in front of his elementary school class and shot himself in the stomach. Converted to Islam the year before he was killed. The execution took 21 minutes between the lethal injection beginning and pronouncement of his death.
- Alvaro Calambro      **Nevada.** Calambro, a national of the Philippines, reportedly had borderline mental retardation, with an IQ of 71, and suffered mental illness, with schizophrenia-type symptoms. Officials of the Philippines government appealed for the execution to be halted, saying that Calambro's consular rights had been denied after his arrest.
- Eric Payne      **Virginia.** When Eric Payne was less than a year old, his father shot and killed his mother in front of him. The father was arrested and committed suicide in his jail cell. Over the next few years Payne was placed with numerous foster parents who were unable to cope with his increasingly disturbed and aggressive behaviour. He was placed in juvenile detention after committing petty thefts. Between the ages of 15 and 19 he was in and out of juvenile detention centres and later sent to adult prison. He was paroled in 1997. Less than six months later, he killed two women in random attacks with a hammer. After his arrest he tried to hang himself in his cell as his father had done 25 years earlier. A clinical psychologist who evaluated Payne as part of the capital sentencing wrote "Because of the abandonment, neglect, abuse and constant institutionalization, Eric Christopher Payne has a great deal of underlying anger... largely towards women". The psychologist wrote that the violent offences of June 1997 could have been avoided. "Mr Payne was on intensive parole with specific recommendations for substance abuse and sex offender treatment, and these recommendations were not followed."<sup>44</sup>

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<sup>44</sup> *The life of Payne: A rare look at the development of a capital murderer.* Richmond Times-Dispatch, 12 September 1999.

- Aaron Foust           **Texas.** Aaron Foust was on death row for less than a year. After he was sentenced to death in 1998, his father reportedly said, "He's not afraid to die. He doesn't want to spend his life in prison. He says he's given his life to Christ. That's the best that you can hope for." In an interview, Aaron Foust said: "I've always been ready to die. George Bush and the state of Texas ain't taking nothing away that I wasn't willing to give them. I've been ready to give up my life for a long time. The only reason I can figure anybody would stick around in a place like this is if they were afraid to die. I'm not." He said he was a "supporter of the death penalty in some cases" and was "willing to take the consequences".
- Eddie Harper           **Kentucky.** Sentenced to death in 1982 for the murder of his adoptive parents, dropped his appeals in 1999 and said he preferred death to the "torture" of life on death row. Defence lawyers argued that he suffered from delusions, had a history of suicidal tendencies within his family, and required a psychiatric evaluation to assess his competency to drop his appeals. The courts rejected their efforts to have his execution stayed. The execution was delayed for about 10 minutes while the execution team searched for a suitable vein to insert the lethal injection needle.
- Charles Tuttle           **Texas.** He had reportedly been high on drugs for the seven days before the crime. Claimed he only wanted to knock the victim, Cathy Harris, unconscious in order to steal her vehicle. He was reportedly offered a plea bargain of life imprisonment in return for a guilty plea, but refused it. In his final statement he said: "To [the victim's] family and friends that were unable to attend today, I am truly sorry. I hope my dropping my appeal has in some way began your healing process. This is all I am going to do to help you out in any way for the nightmare and pain that I have caused you, but I am truly sorry and I wish I could take back what I did, but I can't. I hope this heals you."
- Gary Heidnik           **Pennsylvania.** Gary Heidnik had a documented 30-year history of paranoid schizophrenia. The jury, left unaware of this, failed to find that he was mentally ill. Heidnik's daughter successfully blocked his execution in 1997 on the grounds that his paranoid delusions left him incompetent to waive his appeals. The courts permitted him to be executed in 1999, reportedly despite there having been no material change in his mental condition. Shortly before his execution, one of the lawyers that sought to stop the execution said of Gary Heidnik: "He says he doesn't want to die, but he says he doesn't want to oppose the execution because the execution of an innocent person will end executions in America. His belief that he is innocent is delusional, and his belief about giving up his appeals is inseparable from his schizophrenic delusions."
- Alan Willett           **Arkansas.** Pronounced dead 16 minutes after the lethal solution began to flow. One of two men executed within an hour of each other in the Arkansas death chamber.

- Richard Smith      **Texas.** He dropped his appeals after being diagnosed with terminal liver failure caused by hepatitis C, attributed to long-term drug and alcohol abuse.
- Joseph Parsons      **Utah.** Dropped his appeals after 11 years on death row. From 1994 to 1998, the prison implemented a policy of confining condemned prisoners to cells 23 hours a day, with no group recreation. In an interview in 1998, he said: "Physically, it has diminished me a little, but it is more mental -- like cabin fever. I'm not putting up or down what people did to get in here. But in a nutshell, no human contact is a form of torture...We might be inside, but we're not dead. Everybody needs human contact."
- Robert Atworth      **Texas.** Dropped his appeals after three years on death row. At a hearing into his decision, he told the judge that he wanted to be executed quickly, saying he needed no more than eight weeks to prepare. He said that waiting longer "would sit like a weight. I think the anxiety would kill me before the state would. Anything beyond 60 days would be rather torturous." In his final statement, he said that he was the one who was controlling the execution, and: "For all of you with hatred in their veins... Remember this, if all you know is hatred... you'll never be satisfied."
- **2000**
- James Hampton      **Missouri.** Dropped his appeals in 1998, saying: "I see prisoners down in Potosi [Correctional Center] with 15 years on the row before they finally get to the execution chamber, and I know that I don't want to go through that." Hampton, a 62-year-old man who sustained serious brain damage after shooting himself in the head at the time of his 1992 arrest, was executed on 22 March 2000.
- Christina Riggs      **Arkansas.** On the night of 4 November 1997, Christina Riggs, who came from a family with a history of mental illness and suicidal tendency, killed her two young children, Justin Dalton Thomas and Shelby Alexis Riggs. Having sedated them with an anti-depressant, she planned to inject them with potassium chloride (the chemical used to stop the heart in US lethal injections), which she had got from the hospital where she worked as a nurse. She did not realize that it should be diluted before use. When she injected Justin, therefore, he awoke in pain. She then gave him morphine and smothered him with a pillow. Not wanting to inject Shelby, she proceeded to smother her with a pillow also. She carried both children to her bed and lay them in it. She then wrote a suicide note to her mother and took a large quantity of anti-depressant pills and injected herself with potassium chloride concentrate. Not being diluted, it ate a hole in her arm, collapsing her vein and never reaching her heart. The pills rendered her unconscious. She was discovered the next morning and taken to hospital where she was stabilised in intensive care and kept under police guard. On the night of 5 November her family, who had still not been allowed to see her, hired a lawyer. Before he arrived, however, the police took an eight-minute taped confession from Christina Riggs early on the morning of 6 November. Much of her statement was inaudible as she was crying throughout, and towards the end appeared to be hallucinating. At her trial, a psychiatrist and a psychologist

testified that her actions were the result of severe depression. They gave their opinion that, to her, the children's deaths were an act of love and an extension of her own suicide. The psychologist said: "The pathological suicidal depression that she was in.... effectively precluded her from being able to do something more reasonable, something more appropriate. From the outside looking in, the death of two children like this is pretty horrible. From the inside looking out, it looks like an act of mercy." For the state, a psychiatrist and a psychologist did not dispute that her suicide bid was genuine, but testified that they did not believe that she was sufficiently depressed to justify the defence of not guilty by reason of mental impairment. The jury agreed and convicted her of capital murder after less than an hour of deliberation. At the sentencing, Christina Riggs refused to have any evidence presented on her behalf and asked the jury for a death sentence: "I want to die. I want to be with my babes. I started this out seven months ago. And I want you to give me the death penalty. I don't want you to feel guilty." On 2 May 2000, Christina Riggs was given the lethal injection that she had attempted to administer to herself 29 months earlier.

Richard Foster

**Texas.** Dropped his final appeals after years on death row. Had converted to Christianity. In his final statement he said: "I have been crucified with Christ. It is no longer I who lives, but Christ who lives in me. So for the life for which I live now in the flesh, I live by faith in the Son of God who loved me and gave himself for me".

Pernell Ford

**Alabama.** He was sentenced to death in 1984 for the 1983 murder of Linda Gail Griffith and her mother Willie Griffith when he was 18 years old. From the age of six, Pernell Ford spent extended periods in mental health institutions, and by 13 was being prescribed powerful anti-psychotic and anti-depressant drugs. During his adolescence he attempted suicide several times, by methods including overdose, hanging and poisoning. He is also reported to have attempted suicide on death row. Pernell Ford, black, was tried in 1984 by an all-white jury (the Griffiths were white). Shortly before the trial, he dismissed his lawyers. He was found competent to act as his own lawyer despite his youth, his limited formal education, an IQ measured at 80, and his history of mental problems. The only "defence" he offered was that God would intervene at the trial and bring the victims back to life. For most of the proceedings, Pernell Ford remained silent and withdrawn. There was no opening statement on his behalf, no objections, and no cross-examination of any witnesses. At his sentencing, Pernell Ford dressed himself in a white bed sheet, worn toga-style with a belt and shoulder strap made from a white towel. In a long speech, he asked the judge to have the coffins of the Griffiths brought into the courtroom so that God could raise them from the dead in front of the jurors. On death row, he periodically gave up his appeals, but resumed them when his mental health stabilized. He was diagnosed as suffering from schizophrenia and depression and treated with a range of drugs. Pernell Ford claimed that he was able to transport himself anywhere on earth, by a method he called "translation". He stated that one of his first "translations" from his cell was to India, where he now had a number of wives.

He claimed to have hundreds of thousands of wives in other countries, including the Philippines, Colombia, Ecuador and Spain, and to have millions of dollars in a Swiss bank account, which would support his wives and children after his execution. He said that when he died he would become the Holy Spirit and sit on the left hand of God, and that he had already visited heaven in an earlier "translation".

- Bert Hunter **Missouri.** He pleaded guilty, waived his right to a jury trial against the advice of his lawyers, and told the court he wanted to die. Before his sentencing, he sought to withdraw his guilty plea saying it was the result of depression caused by cocaine withdrawal and the coercive conditions of his solitary confinement during lengthy pre-trial detention. The judge refused to allow him to withdraw his plea and sentenced him to death. Although he took up his appeals, after a decade on death row, he wrote to the Missouri Supreme Court asking it to set an execution date to "end this prison mistreatment nightmare". During his lethal injection, his body reportedly went into violent convulsions.
- Dan Hauser **Florida.** Hauser was executed for the murder of Melanie Marie Rodrigues on 1 January 1995. He had suffered from bipolar disorder (manic depression) since late adolescence, and had been suicidal in the past. During manic phases he was irrational and delusional. A psychiatrist has stated that it was likely that he was suffering from a manic episode at the time of the crime. He was also intoxicated with alcohol on the night of the murder. He regularly abused alcohol and suffered from alcoholic blackouts. The courts rejected an appeal against the execution filed on behalf of Hauser's mother. The appeal argued that Dan Hauser was not mentally competent to waive his appeals and that his decision to do so was part of a grand plan to commit suicide. It argued that Hauser had made up gruesome details of the crime to ensure that he would be sentenced to death. The details given by Hauser, the appeal argued, were inconsistent with his initial confession and did not fit with independent scientific evidence of the physical evidence. Hauser had also lied to the trial court when he said that he had never been treated for mental illness, when in fact he had received psychiatric treatment as both an inpatient and an outpatient at several mental facilities.
- Donald Miller **Arizona.** Said that he would prefer execution to living in prison. Had suffered from Hepatitis C since 1994.
- Edward Castro **Florida.** In his final statement, the 50-year-old Edward Castro reportedly said: "I ask the Lord to forgive all of you for what you are about to do to me. Father forgive them, for they know not what they do. I'm sorry to the families of the victims. I want thank everyone for their prayers, their love and their support".
- 2001
- Thomas Akers **Virginia.** Born to a 16-year-old mother into a life of poverty, abuse and parental neglect. He engaged in solvent abuse from as early as 11. At school he was placed in special education classes for pupils with learning disabilities. He ran



away from home and lived with a man who sexually abused him. Thomas Akers was committed to a series of juvenile facilities for various property offences. At one of the juvenile institutions, he attempted suicide by breaking a light bulb and cutting himself over 100 times. Despite his mental problems, including brain damage, hallucinations and extreme depression, he never received the appropriate long-term therapeutic care that was recommended by mental health professionals at the time. In 1987, when he was 17, he was arrested for stealing, tried and sentenced to adult prison. After a few months, he wrote to the judge who had sentenced him, and asked to be put to death in Virginia's electric chair. After being paroled in August 1998, he began wearing a necklace with an electric chair pendant. He told his family that he was going to be executed. In December 1998, he was arrested for the murder of Wesley Smith. Thomas Akers told his court-appointed lawyers not to bother with a defence, and in April 1999 wrote to the prosecutor: "I have no sympathy or remorse for beating Wesley Smith to death... I am my own "god". I take lives at will and I believe and follow myself. Death is all fun and games to me and my "followers".... By the way I challenge you and any Franklin County Judge to a courtroom dual by a "straight trial". I don't even want a jury trial!... I don't believe the Commonwealth or judges have the heart to sentence me to death. And if I do get live [sic] without parole I promise Virginia I will plot and scheme behind bars and escape and come back to Franklin County and execute justice to some special people I have in mind! Don't procrastinate. Let's get the killing on the way! ... I've mastered 33<sup>a</sup> degrees in 11 years. I possess 360 degrees of pure rawl [sic] power." He then wrote to the trial judge directly: "...If you choose to let me live and not seek the death penalty then the next person or persons I kill the death will be your fault by allowing me to live and not sentencing me to death. So what I want to do is waive the jury and plead guilty to capital murder in your court and be sentenced to death... Don't have sympathy [sic] or compassion for me in your courtroom. I don't have sympathy for myself much less for people or person I intend to kill in the future...". At the sentencing in November 1999, the judge sentenced Akers to death. Thomas Akers waived his right to appeal and was executed 15 months later.

Gerald Bivins

**Indiana.** Gerald Bivins had been on death row for nine years for the murder of a minister during a robbery in 1991. He said he was tired of living under such conditions. He refused to take up his federal appeals. At a press conference shortly before his execution, he insisted that he was not the violent and remorseless person that he had been portrayed as. He told reporters that his family, friends and lawyers were urging him to resume his appeals, but "they don't have to live with what I live with every day. I destroyed a human being's life, and that alone is enough to make me want to give up my appeals. I know what I've done. That's a horrible thought. The images are vivid. They haunt a person." After trying to explain how the crime happened, he continued: "I've hurt a lot of people through my actions. To wake up knowing you killed someone every day, there's nothing like that. Nothing more painful... There is no way to tell [the victim's widow] how sorry I am. All the words in the world... I

hope the victim's family will get some peace and closure through this. I'm sorry for what I done, but saying that don't bring nobody back." In his final statement before execution, Gerald Bivins said: "I wish to apologize to the victim's family for the pain that I have caused them and the pain I have caused my family and friends, and I ask for their forgiveness, and I ask that those who do this to me be forgiven." Gerald Bivins's 61-year-old mother made an apparent suicide attempt by drug overdose shortly after visiting him for the final time.

Robert Massie

**California.** Robert Massie had been on death row in total for about three decades. He was sentenced to death in 1965 for the murder of Mildred Weiss during a robbery. He came 16 hours from execution in California's gas chamber in 1967. In 1972, his execution was commuted to life imprisonment after the US Supreme Court overturned the country's death penalty laws. He was paroled in 1978. He was arrested eight months later for the murder of Boris Naumoff during a robbery of his grocery store and sentenced to death in 1979. He was retried in 1989 and again sentenced to death. He dropped his appeals saying that he preferred execution to a "lingering death by life imprisonment".

Ronald Fluke

**Oklahoma.** In 1997, Ronald Fluke walked into Tulsa police station and confessed that he had killed his wife and two young daughters earlier that morning. At his 1998 trial he pleaded guilty, waived his right to present mitigating evidence, and asked the judge to sentence him to death. He indicated that he had planned to commit suicide after the murders, but was a "coward". He pursued no appeals against his death sentence and on 27 March 2001 was executed – an outcome he described as a "just punishment for my crimes". He claimed to have committed the killings in a bout of depression about his personal finances. In a letter to the *Tulsa World* newspaper, he wrote that his "deluded mind made the worst possible decision", and "my financial crisis was not as severe as my deluded mind perceived. Yes, now, looking back, I should have sought out psychological guidance...".

| States where "consensual" executions have occurred | Executions 1977 to 16 April 2001 |            |              |
|----------------------------------------------------|----------------------------------|------------|--------------|
|                                                    | Non-consensual                   | Consensual | % consensual |
| Idaho                                              | 0                                | 1          | 100%         |
| Ohio                                               | 0                                | 1          | 100%         |
| Oregon                                             | 0                                | 2          | 100%         |
| Pennsylvania                                       | 0                                | 3          | 100%         |
| Nevada                                             | 1                                | 7          | 87.5%        |
| Utah                                               | 2                                | 4          | 66.7%        |

|                |     |    |       |
|----------------|-----|----|-------|
| Washington     | 1   | 2  | 66.7% |
| Indiana        | 4   | 4  | 50%   |
| Kentucky       | 1   | 1  | 50%   |
| Delaware       | 7   | 4  | 36.4% |
| Maryland       | 2   | 1  | 33.3% |
| California     | 7   | 2  | 22.2% |
| Arizona        | 18  | 4  | 18.2% |
| North Carolina | 14  | 3  | 17.6% |
| Illinois       | 10  | 2  | 16.7% |
| South Carolina | 21  | 4  | 16%   |
| Arkansas       | 20  | 3  | 13%   |
| Oklahoma       | 35  | 5  | 12.5% |
| Texas          | 222 | 23 | 9.4%  |
| Missouri       | 44  | 4  | 8.3%  |
| Virginia       | 77  | 5  | 6.1%  |
| Florida        | 48  | 3  | 5.9%  |
| Georgia        | 21  | 1  | 4.5%  |
| Alabama        | 22  | 1  | 4.3%  |

**States which have carried out executions since 1977, all of them non-consensual: Colorado (1), Louisiana (26), Mississippi (4), Montana (2), Nebraska (3), Tennessee (1), Wyoming (1). States which allow for the death penalty, but have carried out no executions since 1977: Connecticut, Kansas, New Hampshire, New Jersey, New Mexico, New York and South Dakota.**