

# DEATH PENALTY FACTS

Updated October 2011

**The death penalty and international human rights standards.** Over two-thirds of the countries in the world – 139 – have now abolished the death penalty in law or practice. In 2010 the overwhelming majority of all known executions took place in five countries - China, Iran, North Korea, Yemen and the United States.

**The death penalty is racially biased.** Since 1977, the overwhelming majority of death row defendants (77%) have been executed for killing white victims, even though African-Americans make up about half of all homicide victims.

**The death penalty claims innocent lives.** Since 1973, 138 people have been released from death rows throughout the country due to evidence of their wrongful conviction. In this same time period, more than 1,200 people have been executed.

**The death penalty is not a deterrent.** FBI data shows that the 14 states without capital punishment in 2008 had homicide rates at or below the national rate.

**The death penalty costs more and diverts resources from genuine crime control.** The greatest costs associated with the death penalty occur prior to and during trial, not in post-conviction proceedings. Even if all post-conviction proceedings (appeals) were abolished, the death penalty would still be more expensive than alternative sentences.

**The death penalty disregards mental illness.** The execution of those with mental illness or “the insane” is clearly prohibited by international law. In the USA, Constitutional protections for those with other forms of mental illness are minimal, however, and dozens of prisoners have been executed despite suffering from serious mental illness.

**The death penalty is arbitrary and unfair.** Almost all death row inmates could not afford their own attorney at trial. Local politics, the location of the crime, plea bargaining, and pure chance affect the process and make it a lottery of who lives and dies. Since the U.S. Supreme Court reinstated the death penalty in 1976, 82% of all executions have taken place in the South (37% in Texas alone).

**The death penalty and the rights of foreign nationals.** 28 foreign nationals have been executed in the United States since 1988. Virtually none had been informed, upon arrest, of their right to communicate with their consular representatives.

**The death penalty can never be “voluntary.”** A decision taken by someone on death row to end his or her life through execution can never be consensual. Moreover, it cannot disguise the fact that the state is involved in a premeditated killing. There have been 137 “volunteer” executions since 1976.

**The federal death penalty is arbitrary and overreaching.** The federal death penalty can be enacted in any state or territory of the United States, even in states that do not have the death penalty. Currently, there are 58 people on federal death row.

More information on each of these issues is available at [www.amnestyusa.org/abolish/](http://www.amnestyusa.org/abolish/)

# THE DEATH PENALTY AND INTERNATIONAL HUMAN RIGHTS STANDARDS

Updated October 2011

Over two-thirds of the countries in the world (139) have abolished the death penalty in law or practice.

1948	The United Nations (UN) unanimously adopted the <b>Universal Declaration of Human Rights</b> , which proclaims every individual's right to life. It states that no one shall be subjected to cruel or degrading punishment.
1966	The UN adopted the <b>International Covenant on Civil and Political Rights (ICCPR)</b> . Article 6 states that "no one shall be arbitrarily deprived of his life," and neither pregnant women nor those under 18 at the time of the crime shall receive the death penalty.
1984	The UN General Assembly adopted the <b>Second Optional Protocol to the ICCPR</b> , aimed at abolition of the death penalty.
1989	The UN Economic and Social Council (ECOSOC) adopted " <b>Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty.</b> " In the same year, the Safeguards were endorsed by consensus by the UN General Assembly. The Safeguards state that anyone sentenced to death has the right to appeal and to petition for a pardon or commutation and that no one under the age of 18 at the time of the crime shall be put to death.
1990	The <b>Protocol to the American Convention on Human Rights</b> was adopted by the General Assembly of the Organization of American States. It provides for the total abolition of the death penalty, allowing for its use in wartime only.
1993	<b>International Criminal Tribunal</b> for the former Yugoslavia does not provide the death penalty as an option, even for the most heinous crimes such as genocide.
1995	The <b>UN Convention on the Rights of the Child</b> came into force. Article 37(a) prohibits the death penalty for persons under 18 at the time of the crime.
1999	The <b>UN Commission on Human Rights (UNCHR)</b> passed a resolution calling on all states that maintain the death penalty to restrict the number of offenses punishable by death.
2002	The Council of Europe's Committee of Ministers adopted <b>Protocol 13 to the European Convention on Human Rights</b> , the first legally binding international treaty to abolish the death penalty in all circumstances with no exceptions.
2005	The <b>UNCHR</b> approved <b>Human Rights Resolution 2005/59</b> on the question of the death penalty, calling for all states that still maintain the death penalty to abolish the death penalty completely.
2007	The <b>UN General Assembly</b> approved <b>Resolution 62/149</b> which called for all states that still maintain the death penalty to establish a moratorium on executions with a view to abolishing the death penalty.

# DEATH PENALTY TRENDS

Updated October 2011

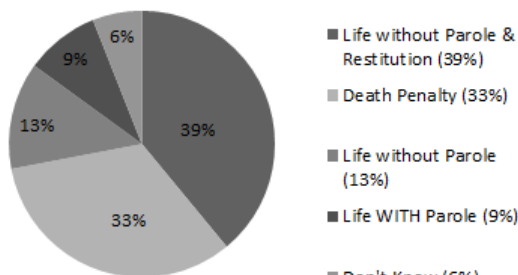
**Public support for the death penalty is diminishing in the U.S.** More than half the U.S. public now prefers alternatives over the death penalty as the best punishment for the crime of murder.

**Annual death sentences in the U.S. have dropped dramatically since the year 2000.** In the last four years the number of death sentences has been lower than any time since reinstatement of the death penalty in 1976.

**Executions have declined as well,** from a high of 98 in 1999 to just 37 in 2008; there were 46 executions in 2010.

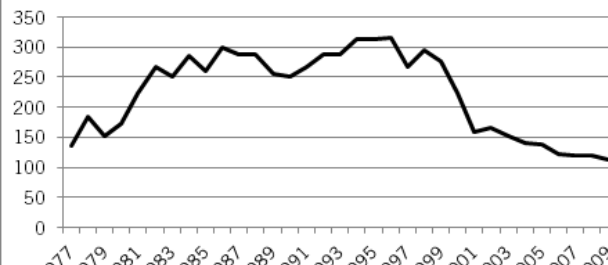
**International Abolition:** in 1977, just 16 countries had abolished the death penalty for all crimes. By 1988, 35 countries had done so and another 18 had abolished the death penalty for all but exceptional crimes like treason, and 27 more were considered abolitionist in practice because they had not carried out an execution in over 10 years. **As of the end of 2010, 139 countries were abolitionist in law or practice.**

## Preferred Punishment for Murder

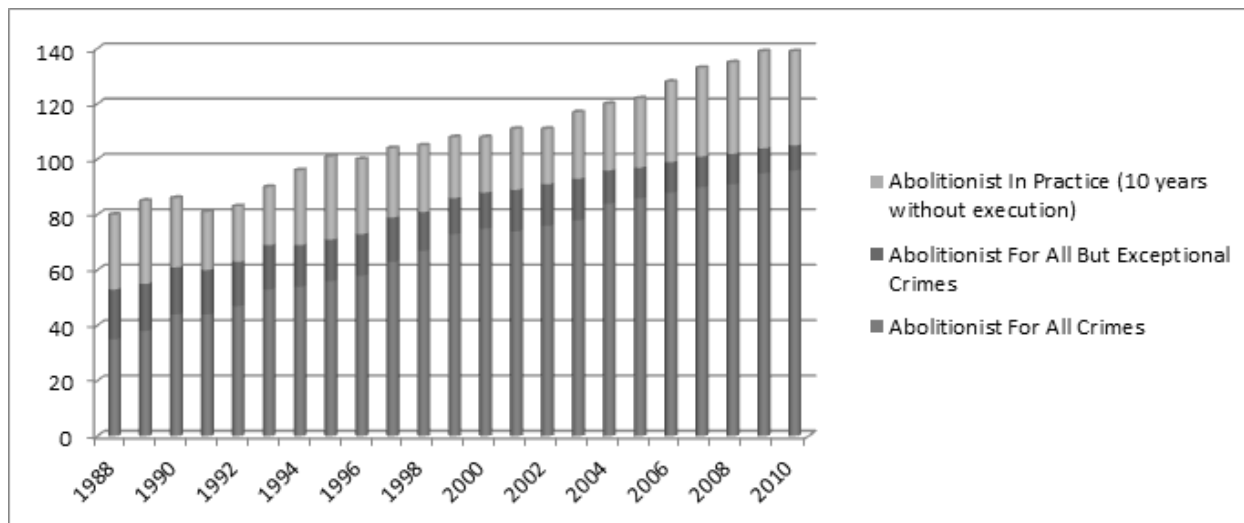


Source: Death Penalty Information Center - November 2010

## U.S. Death Sentences Per Year 1977-2009



Source: <http://www.deathpenaltyinfo.org>



# THE DEATH PENALTY AND INNOCENCE

Updated October 2011

Since 1973, over 138 people have been released from death rows throughout the country due to evidence that they were wrongfully convicted. In 2009 alone, 9 wrongfully convicted defendants were released from death row.

## Examples of wrongful convictions:

<b>Illinois</b> Madison Hobley, Aaron Patterson, Stanley Howard and LeRoy Or- ange, pardoned	→	Sent to death row on the basis of “confessions” extracted through the use of torture by former Chicago Police Commander Jon Burge and other Area 2 police officers in Chicago. They were pardoned by outgoing Governor George Ryan, who also commuted the remaining 167 death sentences in Illinois to life imprisonment.
<b>North Carolina</b> Jonathon Hoff- man exonerated in 2007	→	Convicted and sentenced to death for the 1995 murder of a jewelry store owner. During Hoffman’s first trial, the state’s key witness, Johnell Porter, made undisclosed deals with the prosecutors for testifying against his cousin. Porter has since recanted his testimony, stating that he lied in order to get back at his cousin for stealing money from him.
<b>Alabama</b> Daniel Wade Moore acquit- ted in 2009	→	When Moore was originally found guilty for murder and sexual assault of Karen Tipton in 2002 he was sentenced to death by the judge overruling the jury’s original consensus. However, he was acquitted in 2009 when 256 pages of withheld evidence were finally revealed.

## Factors leading to wrongful convictions include:

- Inadequate legal representation
- Police and prosecutorial misconduct
- Perjured testimony and mistaken eyewitness testimony
- Racial prejudice
- Jailhouse “snitch” testimony
- Suppression and/or misinterpretation of mitigating evidence
- Community/political pressure to solve a case

*“I cannot support a system which, in its administration, has proven so fraught with error and has come so close to the ultimate nightmare, the state’s taking of innocent life... Until I can be sure that everyone sentenced to death in Illinois is truly guilty, until I can be sure with moral certainty that no innocent man or woman is facing a lethal injection, no one will meet that fate.”*

- Governor George Ryan of Illinois, January 2000, in declaring a moratorium on executions in his state, after the 13<sup>th</sup> Illinois death row inmate had been released from prison due to wrongful conviction. In the same time period, 12 others had been executed.

# COST OF THE DEATH PENALTY

Updated October 2011

*“Using conservative rough projections, the Commission estimates the annual costs of the present system (\$137 million per year), the present system after implementation of the reforms ... (\$232.7 million per year) ... and a system which imposes a maximum penalty of lifetime incarceration instead of the death penalty (\$11.5 million).” - California Commission for the Fair Administration of Justice, July 2008*

## RECENT COST STUDIES

State	Cost of Death Penalty Cases	Study
Kansas	70% more than the cost of a comparable non-death penalty case Median cost of \$1.26 million.	December 2003 Survey by the Kansas Legislative Post Audit
Tennessee	48% more than the average cost of trials in which prosecutors seek life imprisonment.	2004 Report from Tennessee Comptroller of the Treasury Office of Research
Maryland	3 times the cost of non-death penalty cases, or \$3 million for a single case.	Urban Institute, <i>The Cost of the Death Penalty in Maryland</i> , March 2008
California	\$137 million per year for the current system; \$11.5 million for a system without the death penalty.	California Commission for the Fair Administration of Justice, July 2008

**The greatest costs associated with the death penalty occur prior to and during trial, not in post-conviction proceedings. Even if all post-conviction proceedings (appeals) were abolished, the death penalty would still be more expensive than alternative sentences.**

- Trials in which the prosecutor is seeking a death sentence have two separate and distinct phases: conviction (guilt/innocence) and sentencing. Special motions and extra time for jury selection typically precede such trials.
- More investigative costs are generally incurred in capital cases, particularly by the prosecution.
- When death penalty trials result in a verdict less than death or are reversed, taxpayers first incur all the extra costs of capital pretrial and trial proceedings and must then also pay either for the cost of incarcerating the prisoner for life or the costs of a retrial (which often leads to a life sentence).

**The death penalty diverts resources from genuine crime control measures. Spending money on the death penalty system means:**

- Reducing the resources available for crime prevention, mental health treatment, education and rehabilitation, meaningful victims' services, and drug treatment programs.
- Diverting it from existing components of the criminal justice system, such as prosecutions of drug crimes, domestic violence, and child abuse.

**In a 2010 poll conducted by the Death Penalty Information Center, pursuing the death penalty was the lowest budget priority:**

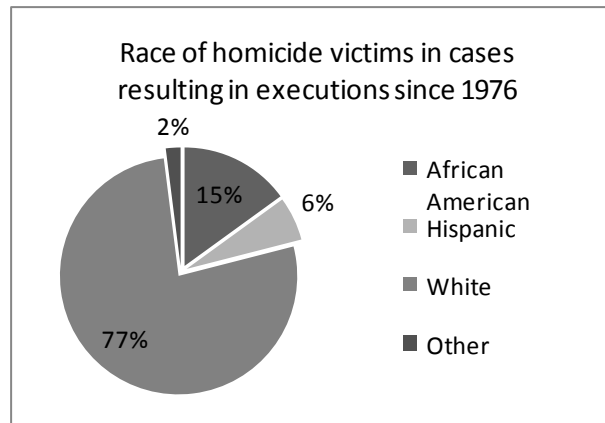
- Emergency services, creating jobs, and police & crime prevention were the three highest rated priorities for use of fiscal resources.

# THE DEATH PENALTY AND RACE

Updated October 2011

Since 1977, the overwhelming majority of death row defendants have been executed for killing white victims, although African-Americans make up about half of all homicide victims.

- In a 1990 report, the non-partisan U.S. General Accounting Office found *“a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty.”* The study concluded that a defendant was several times more likely to be sentenced to death if the murder victim was white. This has been confirmed by the findings of many other studies that, holding all other factors constant, the single most reliable predictor of whether someone will be sentenced to death is the race of the victim.



- From initial charging decisions to plea bargaining to jury sentencing, African-Americans are treated more harshly when they are defendants, and their lives are accorded less value when they are victims. All-white or virtually all-white juries are still commonplace in many localities.
- A report sponsored by the American Bar Association in 2007 concluded that one-third of African-American death row inmates in Philadelphia would have received sentences of life imprisonment if they had not been African-American.
- A January 2003 study released by the University of Maryland concluded that race and geography are major factors in death penalty decisions. Specifically, prosecutors are more likely to seek a death sentence when the race of the victim is white and are less likely to seek a death sentence when the victim is African-American.
- A 2007 study of death sentences in Connecticut conducted by Yale University School of Law revealed that African-American defendants receive death penalty at three times the rate of white defendants in cases where the victims are white. In addition, killers of white victims are treated more severely than people who kill minorities, when it comes to deciding

*“We simply cannot say we live in a country that offers equal justice to all Americans when racial disparities plague the system by which our society imposes the ultimate punishment.”*

- Senator Russ Feingold on Civil Rights as a Priority for the 108<sup>th</sup> Congress, Senate, January 2003

**Read the full report:** “United States of America: Death by discrimination - the continuing role of race in capital cases”  
<http://www.amnesty.org/en/report/info/AMR51/046/2003>

# THE DEATH PENALTY AND ARBITRARINESS

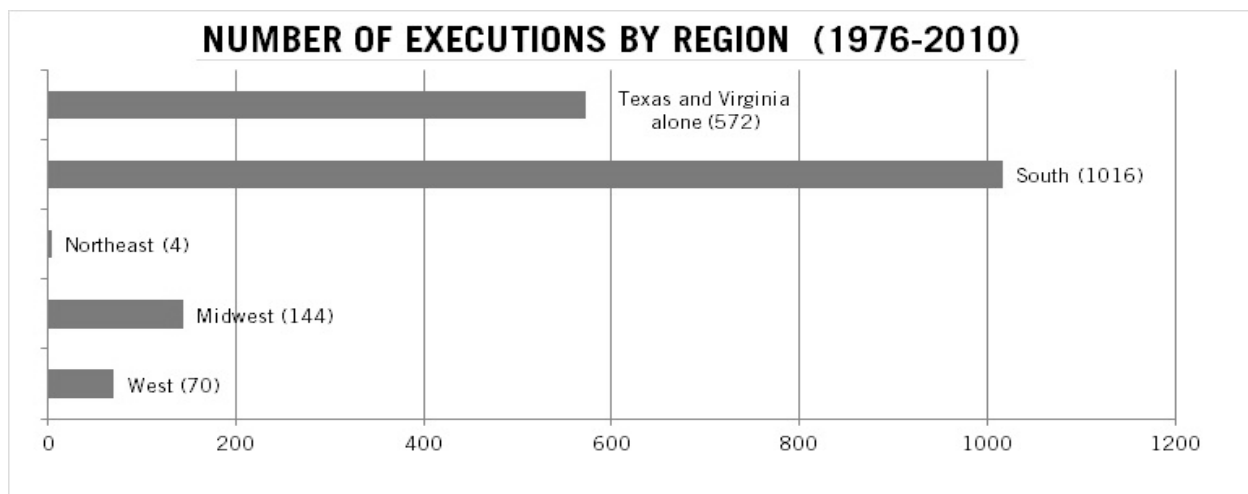
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*“Twenty years have passed since this Court declared that the death penalty must be imposed fairly, and with reasonable consistency, or not at all, and, despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice, and mistake.”*

– U.S. Supreme Court Justice Harry A. Blackmun, February 22, 1994

## FACTORS CONTRIBUTING TO THE ARBITRARINESS OF THE DEATH PENALTY

- Almost all death row inmates could not afford their own attorney at trial. Court-appointed attorneys often lack the experience necessary for capital trials and are overworked and underpaid. In the most extreme cases, some have slept through parts of trials or have arrived under the influence of drugs and/or alcohol.
- Prosecutors seek the death penalty far more frequently when the victim of a homicide is white than when the victim is African-American or of another ethnic/racial origin.
- Co-defendants charged with committing the same crime often receive different punishments, where one defendant may receive a death sentence while another receives prison time.
- Approximately two percent of those convicted of crimes that make them eligible for the death penalty actually receive a death sentence.
- Each prosecutor decides whether or not to seek the death penalty. Local politics, the location of the crime, plea bargaining, and pure chance affect the process and make it a lottery of who lives and who dies.
- **GEOGRAPHIC ARBITRARINESS:** Since the U.S. Supreme Court reinstated the death penalty in 1976, 82% of all executions have taken place in the South. The Northeast accounts for less than 1% of executions.



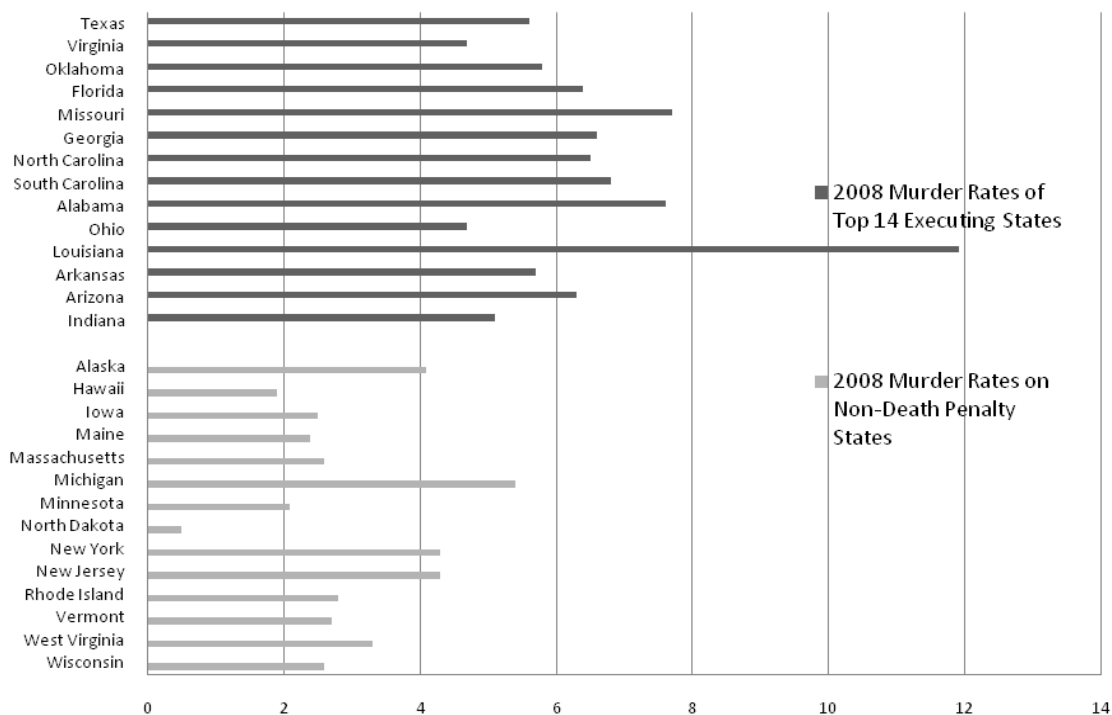
# THE DEATH PENALTY AND DETERRENCE

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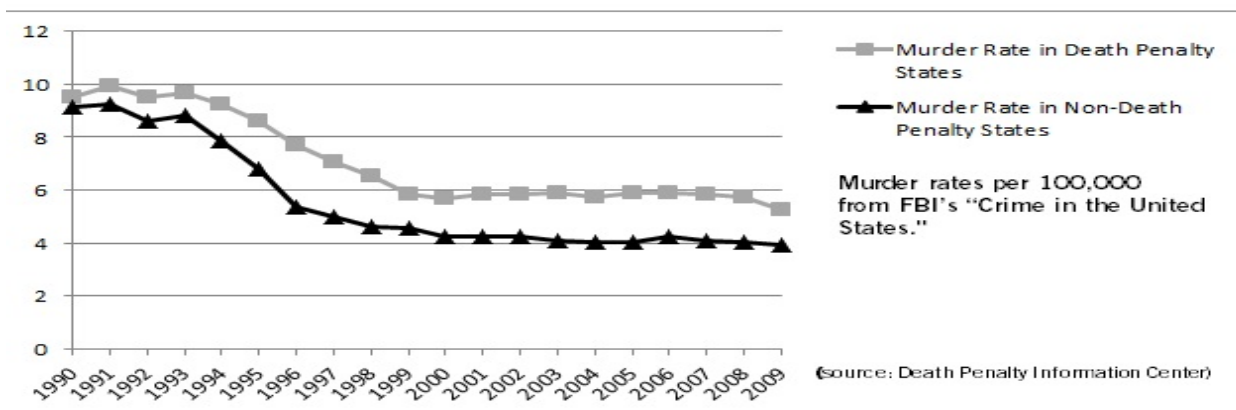
A September 2000 *New York Times* survey found that during the last 20 years, the homicide rate in states with the death penalty has been 48 to 101 percent higher than in states without the death penalty. FBI data shows that all 14 states without capital punishment in 2008 had homicide rates at or below the national rate.

(source: FBI's "Crime in the United States, 2008")

**2008 Murder Rates of the Top 14 Executing States versus the 14 Non-Death Penalty States**  
(murders per 100,000: 2008 US overall murder rate = 5.4)



**MURDER RATES IN STATES WITH AND WITHOUT THE DEATH PENALTY**



The threat of execution at some future date is unlikely to enter the minds of those acting under the influence of drugs and/or alcohol, those who are in the grip of fear or rage, those who are panicking while committing another crime (such as a robbery), or those who suffer from mental illness or mental



# THE DEATH PENALTY AND LETHAL INJECTION

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On January 28th, 2011, Hospira Inc., the sole US company that manufactured *sodium thiopental*, an anesthetic used by states in order to execute prisoners, terminated production of the drug. This left many states with a shortage, delaying some executions. Significantly, hospitals were denied access to a drug with important medical uses, and patients will be deprived of the finest medical treatment possible. Most states have switched to a different anesthetic, *pentobarbital*. Yet the company that produces the only injectable form of this drug, Lundbeck, has also objected to their drug being used for capital punishment.

## THE PROCESS

- The prisoner is bound to a gurney; two needles are inserted into the prisoner's veins and a saline solution is injected.
- **Pentobarbital**, an anesthetic, is injected to put the prisoner to sleep.
- Pavulon, or **pancuronium bromide**, is released, inducing paralysis and stopping breathing.
- Finally, the flow of **potassium chloride** stops the heart. This chemical can cause excruciating pain if the prisoner is still conscious.

## THE RESULTS

- If not rendered unconscious, the inmate will feel excruciating pain; if paralyzed by the **pancuronium bromide**, the inmate will be unable to show this pain.
- Some executions have lasted between 20 minutes to over an hour and prisoners have been seen gasping for air, grimacing and convulsing during executions.

## POTENTIAL PROBLEMS

- The prisoner resists and delays establishment of an intravenous line.
- The execution team is not able to find a suitable vein.
- The mixture or composition of drugs is wrong.
- The direction of flow of the injection is wrong.
- The chemicals are directed into tissue rather than a vein.
- The prisoner does not react normally to the drugs.



(Photo courtesy of Scott Langley)

## CONCERNS

***The involvement of health personnel in executions.*** Virtually all codes of professional ethics which consider the death penalty oppose health professional participation. Despite this, health professionals are required by law in many death penalty states to assist executions and in some cases have carried out the killings.

***The potential for physical suffering.*** A number of lethal injections in the USA have been botched and caused visible suffering. In addition, a number of recent court challenges have been based on *inherent* potential problems with the method, notably that the use of a paralyzing agent in the lethal mixture could mask any suffering caused by the execution.

***Not considered a humane mixture for euthanizing animals.*** Because of the potential for masking pain, the American Veterinary Medical Association has rejected the use of paralyzing agents like pancuronium bromide in animal euthanasia. In states like Tennessee and Texas pancuronium bromide is banned for use on animals; yet it continues to be used on humans.

# EXECUTIONS AND MEDICAL ETHICS

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*"An individual's opinion on capital punishment is the personal moral decision of the individual. A physician, as a member of a profession dedicated to preserving life when there is hope of doing so, should not be a participant in a legally authorized execution."*

- American Medical Association

## THE ISSUE

Lethal injection involves medical procedures including inserting an intravenous line. Untrained executioners can inflict unnecessary pain and suffering and increase the length of the execution, however using medical personnel throughout the procedure to ensure proper care conflicts with the medical profession's **ethical commitment to save lives and harm none**.

**"Although lethal injection mimics certain technical aspects of the practice of anesthesia, capital punishment in any form is not the practice of medicine."** -- American Society of Anesthesiologists (emphasis in original)

### THE ROLE OF MEDICAL PERSONNEL

- According to *AMNews*, 15 states **require** physician presence at executions; 17 others allow doctors to assist in the procedures
- **Duties include** inserting the intravenous lines, monitoring vital signs, and/or injecting the lethal chemicals.
- Most capital punishment states require a doctor to declare death or simply be present.
- Only two states, Illinois and Kentucky – forbid doctors from participating in or attending executions.

### THE ROLE OF THE STATE MEDICAL BOARD

- North Carolina's medical board adopted a policy that would result in the loss of the medical license of any medical professional who participated in capital punishment. However, in September 2007, the state's Superior Court ruled that the medical board did not have the authority to make such a policy (which conflicted with the state's law requiring a doctor to be present at each execution).
- Other State Medical Boards have adopted the AMA's stance but have not addressed penalties for participation.

## MEDICAL BODIES THAT CONSIDER PARTICIPATION IN EXECUTIONS TO BE A BREACH OF ETHICS:

- World Medical Association
- World Psychiatric Association
- International Council of Nurses
- Standing Committee of European Doctors
- American Medical Association
- American Society of Anesthesiologists
- American Nurses Association
- American College of Physicians
- American Public Health Association
- National Association of Emergency Medical Technicians
- American Psychological Association
- Society of Correctional Physicians

## HOSPIRA, INC., LUNDBECK, AND LETHAL INJECTION DRUGS

On March 31, 2010, Hospira Inc., the pharmaceutical company that manufactures all three lethal injection drugs, and the only US manufacturer of the anesthetic sodium thiopental, sent a letter to state departments of correction, stating their objection to the use of these drugs for executions. Lundbeck, the manufacturer of pentobarbital, has repeatedly sent similar letters to states, urging that its drug not be used in executions.

# THE DEATH PENALTY AND MENTAL ILLNESS

Updated October 2011

The execution of those with mental illness or “the insane” is prohibited by international law. Virtually every country in the world prohibits the execution of people with mental illness.

International Resolutions	Year	Excerpt
UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty	1984	“ . . . nor shall the death sentence be carried out. . . on persons who have become insane.”
UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions	1997	Governments that continue to use the death penalty “with respect to minors and the mentally ill are particularly called upon to bring their domestic legislation into conformity with international legal standards.”
UN Commission on Human Rights	2000	Urges all states that maintain the death penalty “not to impose it on a person suffering from any form of mental disorder; not to execute any such person.”

The execution of the insane - someone who does not understand the reason for, or the reality of, his or her punishment - violates the U.S. Constitution (*Ford v. Wainwright*, 1986). The *Ford* decision left the determination of sanity up to each state. Constitutional protections for those with other forms of mental illness are minimal, however, and dozens of prisoners have been executed despite suffering from serious mental illness. The National Association of Mental Health has estimated that five to ten percent of those on death row have serious mental illness.

- **James Colburn** had an extensive history of paranoid schizophrenia when he was arrested for murder. During his 1995 trial, Mr. Colburn received injections of Haldol, an anti-psychotic drug that can have a powerful sedative effect. A 1997 post-conviction assessment questioned Mr. Colburn’s competency to stand trial at that time, finding he had been “seriously sedated during the time of his trial.” He was executed March 26, 2003.
- On January 6, 2004, the State of Arkansas executed **Charles Singleton**, who was said to be “seriously deranged without treatment” and “arguably incompetent with treatment.” It was only during an episode of “drug-induced sanity” that the state scheduled his execution.
- On May 18, 2004, **Kelsey Patterson** was executed in Texas although he was diagnosed with schizophrenia in 1981 and did not possess rational understanding at his trial.

The State of Texas ranks 46<sup>th</sup> out of the 50 U.S. states in terms of the amount of money spent per capita in the treatment of the mentally ill, including funds for mental health services in jails and prisons (*News 8 Austin*, April 21, 2003). It spends an average of \$2.3 million to try a death penalty case. (*Dallas*

Read the full report: “USA: The execution of mentally ill offenders”  
<http://www.amnesty.org/en/report/info/AMR51/003/2006>

# THE "VOLUNTARY" DEATH PENALTY

Updated May 2011

Since 1977, over 10% of all executions (about 137) were "volunteers".

## What does it mean to "volunteer" for the death penalty?

Death row inmates who drop their right to appeal are often referred to as "volunteers" because they no longer wish to overturn their death sentence. This results in what is sometimes referred to as "state-assisted suicide" or "prisoner-assisted homicide".

## What may lead a prisoner not to pursue appeals his or her death sentence?

- Mental or physical illness
- Remorse
- Religious belief
- The severity of conditions of confinement, including prolonged isolation
- The bleak alternative of life imprisonment without the possibility of parole
- Pessimism about appeal prospects
- A quest for notoriety
- A desire to gain a semblance of control over a situation in which he or she is otherwise powerless

*"A defendant's voluntary submission to a barbaric punishment does not ameliorate that 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."*

States Where Inmates Have "Volunteered"	"Volunteer" Executions Since 1977	% Executions That Were "Voluntary"
Connecticut	1	100
Idaho	1	100
New Mexico	1	100
South Dakota	1	100
Oregon	2	100
Pennsylvania	3	100
Nevada	11	92
Washington	3	75
Kentucky	2	67
Utah	4	67
Federal	1	33
Montana	1	33
Delaware	4	29
Indiana	5	25
Ohio	7	21
Maryland	1	20
South Carolina	9	21
Arizona	4	17
Illinois	2	17
Tennessee	1	17
Arkansas	4	15
California	2	15
Florida	9	13
Alabama	5	9
North Carolina	4	9
Oklahoma	7	8
Virginia	8	8
Missouri	4	6
Texas	29	6
Louisiana	1	4
<b>Total</b>	<b>137</b>	<b>11%</b>

# THE DEATH PENALTY AND THE RIGHTS OF FOREIGN NATIONALS

Updated October 2011

Twenty-eight foreign nationals have been executed in the United States since 1988. Virtually none had been informed, upon arrest, of their right to communicate with their consular representatives. In most of these cases, the consular notification issue was raised on appeal and dismissed, allowing the execution to proceed.

## **The Vienna Convention on Consular Relations (VCCR), Article 36:**

*"...if he so requests, the competent authorities of the receiving State shall...inform the consular post of the sending State if...a national of that State is arrested or committed to prison.... The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph."* Ratified by the U.S. in 1969.

Among other crucial functions, consular assistance serves to protect a defendant's legal right to a fair trial, including the **right to prepare an adequate defense**, to understand the nature of the charges, to have the **assistance of an interpreter**, and the right not to be compelled to confess or to testify against oneself.

Around 136 foreign nationals are currently on death row in 17 jurisdictions. Over 40% of all foreign nationals on death row are from Mexico, which has been abolitionist for ordinary crimes since 1937.

## **International Court Rulings:**

In October 1999, the Inter-American Court of Human Rights found that the executions of foreign nationals who were not informed of their consular rights constitute an "arbitrary deprivation of life," requiring a remedy under international law.

In March 2004, the International Court of Justice (ICJ) ruled that the United States had violated the rights of 51 Mexicans on death row and ordered their cases to be reviewed. In Spring 2005, President George W. Bush signed a memorandum to the U.S. Attorney General affirming that the United States would comply with the binding decision of the ICJ and announced that state courts would be required to review and reconsider the effect of violations of the VCCR in the cases of those Mexican nationals who were subsequently sentenced to death.

At the same time, in March 2005, President Bush withdrew the United States from an Optional Protocol to the VCCR that required governments to accept ICJ decisions in VCCR disputes.

## **Medellin v. Texas:**

In November 2006, the Texas Court of Criminal Appeals, in the case of *Medellin v. Texas*, determined that the President did not have the authority to impose ICJ mandated requirements on state courts, and dismissed Medellin's appeal for relief based on VCCR violations. In March 2008, the U.S. Supreme Court concurred with the Texas court's decision, and, further, that the VCCR had not been implemented by Congress and so was not binding federal law. Medellin's appeal was rejected, and he was executed in Texas on August 5, 2008. Congress is now considering legislation that would implement the Convention, which would ensure the consular rights of foreign nationals. In the meantime, however, and despite calls from President Obama, the Department of Justice, and the United Nations, Texas executed Humberto Leal, another foreign national represented in the Medellin case, on July 7, 2011.

**Read the full report:** USA: Government must ensure meaningful judicial review of Mexican death row cases"  
<http://www.amnesty.org/en/library/info/AMR51/025/2008/en>

# THE FEDERAL DEATH PENALTY

Updated October 2011

The federal death penalty can be enacted in any state or territory of the United States, even in states that do not have the death penalty. Three federal executions have taken place since 2001. There are currently 58 prisoners on Federal death row.

- In 1988, a federal death penalty statute was enacted for murders committed in the course of drug trafficking activities.
- In 1994, the federal death penalty was again expanded to include some **60 different offenses**. These included: murder of certain government officials; kidnapping resulting in death; murder for hire; fatal drive-by shootings; sexual abuse crimes resulting in death; carjacking resulting in death; as well as certain crimes not resulting in death, including the running of large-scale drug enterprises.
- From 1963 to 2001, no federal executions took place. Since 2001, three prisoners have been executed; there have been 37 federal executions since 1927.

## THE FEDERAL DEATH PENALTY AND RACE

- According to the Federal Death Penalty Resource Counsel Project, since 1988 US Attorneys General have authorized the death penalty in 435 cases. Of these, only 115 of the defendants (26%) were white. Over half of those currently on Federal death row are non-white.
- An American Civil Liberties Union report in 2007 revealed that the chance of a case being authorized for the death penalty is 84% higher in cases where the victim is white, regardless of the race of the defendant. The report pointed to earlier Justice Department statistics showing that almost twice the percentage of white defendants had the possibility of a death sentence removed through plea bargaining than the percentage of defendants of color.

## THE FEDERAL DEATH PENALTY AND GEOGRAPHY

- According to 2007 Justice Department statistics about 40% of death penalty cases since 2001 have come from six jurisdictions: the Central District of California, the Eastern District of New York, the District of Maryland, the District of Washington, D.C., and the Eastern and Western Districts of Virginia.
- Of the 58 prisoners on federal death row under active death sentences over half came from Southern states, including twelve from Texas. Six came from states that do not have the death penalty. (source: Death Penalty Information Center)

## THE US MILITARY

The U.S. military has its own death penalty statute, although no executions have been carried out since 1961. Six men are on military death row – 4 are African-American. They are held at the U.S. Disciplinary Barracks at Ft. Leavenworth in Kansas.

The Military Commissions Act of 2006 (MCA), which established special military commissions for detainees held at Guantánamo Bay, provides for the death penalty for certain offenses. Some Guantánamo prisoners may face capital charges under this Act, while others may face capital charges in federal court.