

PUBLIC

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Death penalty

06 February 2004

**USA (Texas) Edward Lewis Lagrone (m), black, aged 46
Bobby Ray Hopkins (m), black, aged 36
Cameron Todd Willingham (m), aged 36**

Edward Lagrone, Bobby Hopkins and Cameron Willingham are due to be executed in Texas on 11, 12 and 17 February respectively. Edward Lagrone was convicted in May 1993 of the murder two years earlier of 10-year-old Shakiesha Lloyd and her two great-aunts, Caroline Lloyd, aged 80, and 87-year-old Zenobia Anderson. Bobby Hopkins was convicted in May 1994 of the murders of Sandi Marbut, aged 18, and her 19-year-old cousin Jennifer Weston in July 1993. Cameron Willingham was convicted in August 1992 of the arson murders of three young children, Amber Kuykendall, Karmon Willingham and Kameron Willingham, in a house fire in December 1991.

Amnesty International opposes the death penalty in all cases. Executions are a symptom of a culture of violence rather than a solution to it, and consume resources that could otherwise be used towards constructive strategies to combat violent crime and to offer assistance to its victims and their families. The death penalty not only prolongs the suffering of the murder victim's family through the necessarily long appeals process, it extends the suffering to the relatives of the condemned. In addition, the capital justice system in the USA is marked by arbitrariness, discrimination and error. Since 1987 seven Texas death row inmates have been released from death rows after evidence of their innocence emerged. It took on average 10 years between conviction and exoneration in their cases. Other prisoners have been put to death in Texas despite serious doubts about their guilt. In 2003 the US Court of Appeals for the Fifth Circuit upheld Bobby Hopkins's death sentence despite finding that the police conduct to obtain his alleged confession was improper – Hopkins was held in isolation for 15 days and repeatedly interrogated without a lawyer before finally being tricked into making incriminating statements.

Texas accounts for less than eight per cent of the USA's population but 35 per cent of its executions. Since the resumption of executions in 1977, 895 men and women have been killed in the USA. Of these, 317 were executed in Texas, and there are 450 more people awaiting execution there. A prerequisite for a death sentence in Texas is a jury determination that the defendant will likely be a future danger to society if allowed to live. Having just convicted the defendant of a serious crime, hundreds of juries have been persuaded by zealous prosecutors to answer the "future dangerousness" question in the affirmative. Texas prosecutors have frequently resorted to the use of unreliable evidence such as psychiatric testimony claiming to predict a defendant's future behaviour with absolute certainty. Dr James Grigson, who was expelled from the American Psychiatric Association in 1995 for making such predictions in capital cases, testified in Cameron Willingham's case. The inadequate legal representation afforded to capital defendants in Texas has often meant that juries have not heard available mitigating evidence to weigh against the state's case for execution.

At the other end of the process, the final safeguard of executive clemency in Texas continues to appear to be an empty gesture. The Board of Pardons and Paroles (BPP) frequently votes unanimously or near unanimously against clemency. Texas governors have the power to stop executions and to request the BPP to reconsider. They have routinely failed to use this power of reprieve to this end. The appeal courts have rejected Edward Lagrone's claim that the Texas clemency procedures violate the constitution and the USA's international obligation to provide meaningful clemency review.

All the executions carried out in Texas since 1982 have been by lethal injection. Although promoted as a "humane" method, no execution technique can rid the death penalty of its cruelty. The death penalty is not just the act of execution, but the death sentence itself. If holding a gun against someone's head in an interrogation room is torture, why is holding a person for years under the threat of the lethal injection needle

considered acceptable? Those who consider execution by lethal injection to be a non-violent activity should be asked whether they would characterize as non-violent the action of a private citizen who captured a fellow human being, promised to murder that captive at some time in the future, and after several years, strapped him or her down and killed them by injecting poison into their veins. In the past seven years alone, Texas has killed more than 200 people in this way, more than two a month. Moreover, lethal injections do not guarantee quick, efficient executions. On 7 December 2000 in Texas, for example, Claude Jones's execution was delayed for 30 minutes while the executioners struggled to find a suitable vein in which to insert the needle. They finally inserted it into his leg.

In Texas, as in many states, lethal injections are carried out using a combination of three chemicals: sodium thiopental, pancuronium bromide and potassium chloride. There is evidence that the pancuronium bromide, a derivative of curare which paralyses the muscles but does not affect the brain or nerves, may mask the condemned prisoner's suffering during the execution. A person injected with this chemical cannot move or speak. When lawyers in Tennessee challenged the state's use of this chemical, they presented as a witness a woman who had undergone surgery during which the anaesthetic was not effective. She testified that she was able to hear, perceive and feel everything that was going on in her surgery, but was unable to move or speak because of an injection of pancuronium bromide. She has described the experience as "worse than death". Lawyers continue to file claims that a "chemical veil" is masking the reality of the lethal injection process.

The use of pancuronium bromide for pet euthanasia is unacceptable under American Veterinary Medical Association guidelines, and its use has been banned in several states. In September 2003, a new law came into force in Texas prohibiting its use in the euthanasia of cats and dogs. The American Medical Association's Code of Ethics prohibits doctors from participating in executions. There are reportedly no standards for the training of the non-medical personnel who carry out Texas executions, increasing the potential for "botched" killings. A recent appeal in a Texas case points to a law which will come into force on 1 January 2005, and which "would make the lethal injection process, if performed on animals, illegal, because of the lack of training for the personnel involved, and the lack of safeguards."

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words, opposing these executions and the continuing use of the death penalty in Texas. Call on the addressees to use their power and influence to do all they can to stop these executions and to lead Texas away from the death penalty in line with the global abolitionist trend.

APPEALS TO:

The Honorable Rick Perry, Governor of Texas, State Capitol, PO Box 12428, Austin, TX 78711, USA

Telegram: **Honorable Rick Perry, Governor of Texas, State Capitol, Austin, Texas, USA**

Fax: **+1 512 463 1849 / 0039 / 1932**

Salutation: **Dear Governor**

The Honorable Greg Abbott, Attorney General, PO Box 12548, Austin, TX 78711-2548, USA

Telegram: **Honorable Greg Abbott, Attorney General, Austin, Texas, USA**

Email: **greg.abbott@oag.state.tx.us**

Fax: **+1 512 475 2994**

Salutation: **Dear Attorney General**

COPIES TO: Diplomatic representatives of USA accredited to your country.

You may also write brief letters (not more than 250 words) to: Letters to the Editor, *Austin-American Statesman*, P.O. Box 670, Austin, Texas 78767, USA. **Fax: +1 512 912 5927. Email: <http://www.statesman.com/search/content/standing/letters.html>**

PLEASE SEND APPEALS IMMEDIATELY. All appeals must arrive by 11 February 2004.