

**PUBLIC**

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**UA 175/04**

**Death penalty**

**18 May 2004**

**USA (Maryland) Steven Howard Oken (m), white, aged 42**

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Steven Oken is scheduled to be executed in Maryland in the week beginning 14 June 2004. He was sentenced to death in 1991 for the rape and murder of 20-year-old Dawn Marie Garvin in 1987.

If Steven Oken is executed, he would be the first person to be put to death in Maryland since a moratorium on executions announced by the previous governor, Parris Glendening, on 9 May 2002. He imposed the moratorium pending the outcome of a University of Maryland study that he had commissioned in 2000 to look into the fairness of the state's death penalty, particularly geographic and racial disparities in capital sentencing. Upon taking office in January 2003, Governor Robert Ehrlich lifted the moratorium, stating that he would review every death warrant on a case-by-case basis.

On 7 January 2003, the final report of the study was released. *An Empirical Analysis of Maryland's Death Sentencing System With Respect to the Influence of Race and Legal Jurisdiction*, by Professor Raymond Paternoster of the University of Maryland, examined all first and second-degree murders committed in Maryland from August 1978 (the time when the new capital punishment law took effect) until September of 1999, approximately 6,000 cases in all. This is the most comprehensive study of the impact of race and geography on the death penalty in Maryland. It concluded that, even when other factors are accounted for, people who kill white victims are "significantly" more likely to face the death penalty than killers of non-whites. It also concluded that prosecutors in different counties "exhibit considerable variation" in their pursuit of the death penalty. In terms of whether a particular "death-eligible" murder will be pursued as a capital crime, therefore, "clearly the jurisdiction where the homicide occurs matters and matters a great deal". Murders in Baltimore County are more likely to be pursued as death penalty cases than other counties. Baltimore County accounts for two of the three people executed in Maryland since 1977 and five out of the eight men currently on death row. Steven Oken was prosecuted in Baltimore County. Dawn Marie Garvin was white.

Maryland's death penalty continues to draw scrutiny and the state has been unable to move forward with legislative remedies addressing the acute concerns raised by the University of Maryland study. In the last three and a half years the number of death row inmates in Maryland has shrunk from 18 to eight without a single execution. The decline is attributable to appellate decisions granting prisoner's new trials, DNA evidence, or new sentencing because of legal flaws in the initial proceedings. During the 2004 legislative session, legislation to establish the Maryland Commission on Capital Punishment passed the Maryland Senate (30-16), but ultimately failed in a House Committee.

#### **BACKGROUND INFORMATION**

Amnesty International opposes the death penalty in all cases. Every death sentence is an affront to human dignity, every execution a symptom of a culture of violence, rather than a solution to it. Today, 117 countries are abolitionist in law or practice. In contrast, the USA has already executed 24 people this year, bringing to 909 the number of people it has put to death since executions resumed in 1977. Maryland accounts for three of the 909 executions.

There are eight people on death row in Maryland, seven blacks and one white. All were convicted of killing white people. Studies of the US death penalty have consistently shown that race, particularly race of victim, plays a role in who is sentenced to death. In 1994, a US Supreme Court Justice said: "Even under the most sophisticated death penalty statutes, race continues to play a major role in determining who shall live and who shall die." The UN Special Rapporteur on extrajudicial, summary or arbitrary executions wrote following his visit to the USA in 1997: "Race, ethnic origin and economic status appear to be key determinants in who will, and who will not, receive a sentence of death". In its report on the USA in 2001, the UN Committee on

the Elimination of Racial Discrimination noted the "disturbing correlation between race, both of the victim and the defendant, and the imposition of the death penalty..." The Committee urged the authorities "to ensure, possibly by imposing a moratorium, that no death penalty is imposed as a result of racial bias on the part of prosecutors, judges, juries and lawyers or as a result of the economically, socially and educationally disadvantaged position of the convicted persons."

Steven Oken was previously the subject of EXTRA 09/03 (AMR 51/017/2003, 10 February 2003).

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in your own words:**

- expressing sympathy for the family and friends of Dawn Marie Garvin, whose murder resulted in a death sentence for Steven Oken;
- explaining that you are not seeking to minimize the seriousness of this crime or the suffering it will have caused;
- noting that the University of Maryland study has concluded that there is racial and geographic bias in the state's capital sentencing;
- noting that two of the elements that appear to influence sentencing outcomes – race of victim and jurisdiction – are evidenced in Steven Oken's case;
- suggesting that the systemic problems revealed by the study cannot be remedied on a case-by-case basis at the time of clemency proceedings;
- urging the Governor to grant clemency to Steven Oken, and to support continuing efforts to establish the Maryland Commission on Capital Punishment.

**APPEALS TO:**

Robert L. Ehrlich, Jr.  
Governor of Maryland  
The Statehouse  
100 State Circle  
Annapolis, Maryland 21401-1925, USA  
**Fax:** +1 410 974 3275  
**Email:** [governor@gov.state.md.us](mailto:governor@gov.state.md.us)  
**Salutation:** Dear Governor

**COPIES TO:**

Michael S. Steele  
Lieutenant Governor of Maryland  
The Statehouse  
100 State Circle  
Annapolis, Maryland 21402, USA  
**Fax:** +1 410 974 5882

and to diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** All appeals must arrive by 14 June 2004.