

10 August 2000

Further information on EXTRA 67/00 (AMR 51/120/00, 7 August 2000) - Death penalty / Legal concern**USA (Texas) Oliver David Cruz, Latino, aged 33**

Latino Oliver Cruz was executed on 9 August 2000 for the rape and murder of 24-year-old Kelly Elizabeth Donovan, white.

Oliver Cruz's white co-defendant, charged with the same crime, pleaded guilty and testified against Cruz. In return he avoided the death penalty and received a 65-year prison sentence with the possibility of parole.

Oliver Cruz's IQ had been measured as low as 64, placing him within the retardation range. The President of the American Bar Association was among those who appealed for the execution to be stopped:

"The American Bar Association takes no position on the death penalty per se. Our opposition to Mr. Cruz's execution is based upon the Association's long-standing policy that the death penalty should not be imposed upon any person who is mentally retarded. It is our understanding that Mr. Cruz's mental capacity falls within the definition of mental retardation... I have been informed of the following:

1. The issue of Mr. Cruz's mental retardation is uncontested;
2. School officials determined that he was mentally retarded early on in his schooling;
3. He had to repeat the seventh grade three times without improvement;
4. Mr. Cruz's comprehension abilities are very low, in the medium to severe range of mental retardation; and
5. One psychologist, Dr. Jack Ferrell, testified that Mr. Cruz was illiterate and that 99.96 percent of the population could read and comprehend better than he was able to do.

"In 1989, after much research and deliberation, the ABA adopted its policy opposing the execution of mentally retarded persons, finding such a practice to be unacceptable in a civilized society, irrespective of their guilt or innocence.... The ABA's view is shared by organizations in this country and around the globe with the greatest knowledge about people with mental retardation. The groups include the American Association on Mental Retardation (the oldest and largest interdisciplinary professional organization in the field, which has opposed the execution of people with mental retardation since at least 1988); the Arc of the United States (a national, voluntary association of families of people with mental retardation); the International Association for the Scientific Study of Intellectual Disabilities; and TASH (an international advocacy association of people with disabilities).

"Compassionate consideration for the families of victims of violent crime is important in a civilized society. Just as important, however, the execution of persons who are mentally retarded serves no principled purpose and demeans our system of justice..."

A few hours before the execution, Governor Bush, campaigning for the US presidency in California, responded to questions about the imminent execution.

When told that some US states (13) have banned the execution of the mentally retarded, the Governor reportedly responded, "So do we, in Texas."

Texas continues to allow the execution of the mentally retarded. A bill seeking to prohibit such use of the death penalty in the state failed to pass into law in 1999. Governor Bush reportedly opposed it. Since Governor Bush took office in 1995, inmates believed to be mentally retarded have been put to death, including Terry Washington in 1997 and Charles Boyd in 1999.

Oliver Cruz was executed less than an hour after another man, Brian Roberson, had been put to death in the same lethal injection chamber. The Secretary General of the Council of Europe was among those who appealed against the executions:

"I write to you to express my deepest concern and abhorrence about the imminent executions of Oliver Cruz and Brian Roberson, and would ask you to stay these executions. The Council of Europe and its member states are unequivocally opposed to the death penalty, considering it has no place in a civilized democracy. The case of Cruz is particularly abhorrent inasmuch as it is reported that he is mentally retarded. His execution would not only flout a recent Resolution of the UN Human Rights Commission but would also contravene international legal standards."

The European Union also appealed to Governor Bush to halt the execution of Oliver Cruz: "We, as the representatives of the Presidency of the European Union, France, together with the next president, Sweden, and the European Commission wish to convey to you an urgent humanitarian appeal by the EU on behalf of Mr. Oliver Cruz. We make this request pursuant to the European Union's policy of seeking a global moratorium on the use of the death penalty, which we have long renounced in Europe..."

"While Mr. Cruz has admitted his guilt for the crime, it is our opinion that his execution would additionally violate the United Nations Economic and Social Council (ECOSOC) Resolution 1989/64 of 24 May 1989 on the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty. This resolution recommends that United Nations Member States eliminate the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution. The EU considers that the execution of Mr. Cruz would be contrary to these generally accepted human rights norms."

Oliver Cruz becomes the 58th prisoner executed in the USA this year, and the 28th in Texas. Texas now accounts for 227 of the 656 executions carried out in the USA since the country resumed judicial killing in 1977. Since Governor Bush took office in January 1995, 140 prisoners have been put to death in Texas.

No further action is requested. Many thanks to all who sent appeals.