

**EXTERNAL (for general distribution)**

**AI Index: AMR 51/53/94  
Distr: UA/SC**

**EXTRA 40/94**

**Death Penalty**

**22 July 1994**

**USA (Texas)**

**Robert Nelson DREW  
Lesley GOSCH**

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Robert Drew is scheduled to be executed in Texas on 2 August 1994, and Lesley Gosch on 15 August.

Robert Drew, white, was sentenced to death in December 1983 for the murder of Jeffrey Mays, white, in February 1983. Lesley Gosch, also white, was sentenced to death in 1986 for the murder of a white female. Robert Drew's lawyers have presented a petition for a hearing on alleged new evidence in the case to a Texas District Court, and are seeking a stay pending the court's ruling.

#### **BACKGROUND INFORMATION**

Amnesty International has mounting concerns regarding the number of executions being scheduled in Texas - for example, another seven prisoners are scheduled to be executed in Texas between 3 August and 25 August (most of these have appeals currently pending and should receive stays of execution). Texas carries out more executions than any other state; it continues to execute juvenile offenders, flouting international standards, and many prisoners do not have legal representation to present their appeals.

Prisoners in Texas have no right to legal representation after their sentence has been confirmed on direct appeal to the state courts. Many prisoners have received execution dates with no lawyers to present their appeals to federal courts, and some have come within hours of execution, with federal courts refusing to grant stays of execution on the grounds that they have no jurisdiction over a case until an appeal has been filed. However, on 1 July 1994 the US Supreme Court ruled that prisoners may be granted stays by federal courts in order to allow them time to find lawyers to present their federal appeals.

Most prisoners under sentence of death in Texas were convicted under a statute which severely restricted the consideration of mitigating circumstances at the sentencing hearing in which the court chooses between a life or death sentence. That statute has now been changed to allow for any mitigating circumstance to be taken into account. However, this does not apply retroactively to prisoners sentenced under the old statute. Amnesty International believes that this fact alone should be grounds for commuting the death sentences of those now facing execution in Texas.

A major study on racial discrimination conducted in the 1970s found that, in Texas, offenders who killed white victims were several times more likely to be sentenced to death than white offenders who killed black victims.

Under Texas clemency rules, the governor may commute a sentence of death only if she receives a favourable recommendation from a majority of the 18-member Board of Pardons and Paroles. Amnesty International remains concerned about the reluctance of the Board to hold full clemency hearings in death penalty cases. Apart from a number of commutations granted in the 1980s as the result of two key court rulings, the Board has never recommended clemency in any death penalty case in recent years.

As of 20 April 1994 there were 386 prisoners under sentence of death in Texas; the largest death row population in the USA. The most recent person to be executed in Texas was Andre Depty, on 23 June 1994. The method of execution is lethal injection.

**RECOMMENDED ACTIONS: Please send telegrams/faxes/express and airmail letters, or call by telephone:**

Appeals to the Board of Pardons and Paroles:

- urging the Board to recommend that Governor Richards grant clemency to Robert Drew and Lesley Gosch;
- urging that at the very least, a stay of execution be recommended in the case of Robert Drew pending the final resolution of the petition filed in the district court on alleged new evidence in the case.

Appeals to Governor Richards:

- urging Governor Richards to grant clemency to Robert Drew and Lesley Gosch;

Appeals to both:

- citing arguments against the death penalty - for example, in the USA research studies show that it is imposed disproportionately on people from poor backgrounds, and on those without adequate legal representation; note that detailed research in the USA and other countries has provided no evidence that the death penalty deters crime more effectively than other punishments.

**APPEALS TO**

Texas Board of Pardons and Paroles  
Executive Clemency Unit  
Texas Department of Criminal Justice  
Pardons and Paroles Division  
PO Box 13401  
Austin, TX 78711  
USA

**Faxes: + 1 512 467 0945**

**Telephone: +1 512 406 5852**

**Salutation: Dear Board Members**

The Honorable Ann Richards  
Governor of Texas  
Office of the Governor  
PO Box 12428, Capitol Station  
Austin, TX 78711  
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**Salutation: Dear Governor**

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and to diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**