

# US death penalty debate intensifies in aftermath of Graham execution

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Since Gary Graham was executed in Huntsville, Texas on June 22, six other death row prisoners in the US have been sent to their deaths. The condemned men included three from Texas: Jessy Carlos San Miguel on June 29, Orien Cecil Joiner on July 12 and Juan Soria on July 26. Also put death were Bert Hunter, June 28 in Missouri; Michael D. Clagett, July 12 in Virginia; and Gregg Francis Braun, July 20 in Oklahoma.

The execution of Graham, 36, who was also known as Shaka Sankofa, provoked widespread protests, both nationally and internationally. Despite the existence of substantial evidence pointing to his innocence, and the undisputed fact that his court-appointed lawyer failed to conduct a serious defense, Texas Governor and Republican presidential candidate George W. Bush did not intervene to stop the execution.

There are 13 death row inmates scheduled to be put to death in August. This includes 6 planned executions in Texas alone, which would bring the total for the year in that state to 32. Fifty-six people have been executed in the US in 2000, a pace similar to that of 1999 when the year's total reached 98.

Although a recent Gallup poll showed 66 percent of Americans still supporting the death penalty, this is down significantly from 80 percent in 1994. The drop is notable in light of the pro-death penalty stance of the two big business parties and the relentless, well-publicized drive by prosecutors and judges to secure death sentences over the last decade.

Last January, Illinois Governor George Ryan, a Republican, announced a moratorium on executions in the state. Since the death penalty was reinstated in Illinois in 1977, 13 condemned inmates have been taken off death row after they were exonerated by DNA evidence proving their innocence or the cases against them collapsed after new trials were ordered by

appellate courts. Governor Ryan described the death penalty system in Illinois as “fraught with errors” and “broken,” and there is mounting evidence that the situation is similar in other states and at the federal level.

A study released by the *Chicago Tribune* last June documented gross injustices and legal abuses in the death penalty system in Texas. According to the report, many of the 131 executions that had taken place in the state up to that date under Governor Bush had been “compromised by unreliable evidence, disbarred or suspended defense attorneys, meager defense efforts during sentencing and dubious psychiatric testimony.” Misconduct by defense lawyers in Texas cited by the *Tribune* included failing to show up for trials, lying to defendants and judges and dismissing a defendant's legal claims without the latter's permission or knowledge.

On the federal level, a study released last month by the Federal Death Penalty Resource Counsel Project, a private group that works with defense lawyers in federal cases, found that white defendants are more likely than blacks to work out plea bargains to avoid death sentences. The study of 146 cases prosecuted since federal capital punishment was reinstated in 1988 found that 60 percent of white defendants avoided death sentences while only 41 of black defendants were able to reach such an agreement with prosecutors. The Justice Department is also in the midst of its own examination of racial and geographic differences in the death penalty, prompted in part by the Illinois moratorium.

Although the Clinton administration has not called for a moratorium on federal executions, it has postponed the scheduled August 5 execution of Jean Raul Garza. If carried out, Garza's would be the first

federal execution in 37 years, as most death penalty cases in the US are prosecuted at the state level. The administration has said it will postpone the execution until the Justice Department finishes drafting guidelines for seeking presidential clemency in federal capital cases.

This will undoubtedly forestall any chance of Garza being put to death before the November presidential elections, in which Vice President Al Gore is running as the Democratic candidate. At the time Gary Graham was put to death, Gore did not condemn the execution, but rather seized on the occasion to reaffirm his support for the death penalty. He stated that his concern was that the death penalty be implemented fairly, and that wrongful convictions meant that the “real killers” might go free.

Since that time the Gore campaign has reduced its emphasis on the death penalty issue. The Democratic Party 1996 platform boasted that the Clinton administration had “established the death penalty for nearly 60 violent crimes, including murder of a law enforcement officer” and “signed a law to limit appeals” (referring to the Anti-Terrorism and Effective Death Penalty Act). The party's 2000 platform reaffirms support for the death penalty, but only in passing.

The same Gallup poll that reported a majority of Americans supporting the death penalty found that 91 percent believed innocent people had most likely been put to death. Since the reinstatement of capital punishment in the US more than 85 wrongfully convicted individuals have been released from death row. Twenty-one inmates were released between 1993 and 1997 alone, many of these exonerated by new tests on DNA evidence.

Last month, Judge L.A. McConnell of the Houston County Superior Court in Georgia authorized testing of DNA evidence in the case of a man who had already been executed. The order—sought by the *Boston Globe* in the case of Ellis Wayne Felker, executed in Georgia in 1996—is believed to be the first such ruling and could further fuel the death penalty controversy if it exonerates the condemned man.

Responding to mounting evidence of wrongful convictions, the newly-elected president of the American Bar Association (ABA), the professional organization of 400,000 lawyers in the United States,

called for a federal moratorium on the death penalty. At a press conference July 10, ABA President Martha Barnett called for all attorneys to press for a moratorium within their states and for a national conference on the death penalty to be convened this fall.

While the ABA opposes the execution of the mentally ill and juvenile offenders, it does not in principle oppose the death penalty. To this effect Barnett stated, “No defendant should be executed until we assure that the imposition of the ultimate sanction is not a result of inadequate counsel or lack of due process.”

The pro-death penalty stance of the two big business parties, and the majority of the legal establishment, is at odds with international opinion. A number of international treaties ban the use of the death penalty, including the European Convention on Human Rights.

A letter from the European Union to President Bill Clinton released July 27 called for a US moratorium on federal executions, and appealed for clemency for federal death row inmate Juan Raul Garza. A new report by Amnesty International, entitled “Worlds Apart,” details the cases of 10 European citizens on death row in the US.



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