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1,000th execution slated for next week

An execution once every 10 days since moratorium lifted

NEW YORK (AP) -- "Let's do it."

With those last words, convicted killer Gary Gilmore ushered in the modern era of capital punishment in the United States, an age of busy death chambers that will likely see its 1,000th execution in the coming days.

After a 10-year moratorium, Gilmore in 1977 became the first person executed following a 1976 U.S. Supreme Court decision that validated state laws to reform the capital punishment system. Since then, 997 prisoners have been executed, and next week, the 998th, 999th and 1,000th are scheduled to die.

Robin Lovitt, 41, will likely be the one to earn that macabre distinction next Wednesday. He was convicted of fatally stabbing a man with scissors during a 1998 pool hall robbery in Virginia.

Ahead of Lovitt on death row are Eric Nance, scheduled to be executed Monday in Arkansas, and John Hicks, scheduled to be executed Tuesday in Ohio. Both executions appear likely to proceed.

Gilmore was executed before a Utah firing squad, after a record of petty crime, killing of a motel manager and suicide attempts in prison. His life was the basis for a TV miniseries and Norman Mailer's book, "The Executioner's Song."

While his case was well-known, most people today probably couldn't name even one of the more than 3,400 prisoners -- including 118 foreign nationals -- on death row in the U.S. In the last 28 years, the U.S. has executed on average one person every 10 days.

The focus of the debate on capital punishment was once the question of whether it served as a deterrent to crime. Today, the argument is more on whether the government can be trusted not to execute an innocent person.

Thomas Hill, an attorney for a death row inmate in Ohio who recently won a second stay of execution, thinks the answer is obvious.

"We have a criminal system that makes mistakes. If you accept that proposition, that means you have to be prepared for the inevitability that some are sentenced to death for crimes they didn't commit," Hill said.

But advocates of the death penalty argue that its opponents are elitist liberals who are ignoring the real victims.

"Since 1999, we've had 100,000 innocent people murdered in the U.S., but nobody is planning on commemorating all those people killed," said Michael Paranzino, president of Throw Away the Key, a group that supports the death penalty.

The race factor

Race also is a key question in the debate. Since 1976, 58 percent of those executed in the U.S. were white while 34 percent were black, according to the Death Penalty Information Center. But non-Latino whites make up 75 percent of the U.S. population, while non-Latino blacks comprise just over 12 percent, according to the U.S. Census Bureau.

Some supporters say ending the death penalty would be harmful to poor minorities, who are disproportionately murder victims.

"Increasingly violent crime is primarily for the working class folks, poor people and people of color," Paranzino said.

Opponents of capital punishment also point to the unfair role of class and race in death penalty cases.

"The race of the victims has a lot to do with who winds up getting executed," said Barry Scheck, co-founder of the New York-based Innocence Project, a legal clinic that seeks to exonerate inmates through DNA testing. "There is tremendous arbitrariness to the death penalty."

Death sentences nationwide have dropped by 50 percent since the late 1990s, with actual executions down by 40 percent, according to the Death Penalty Information Center. Twelve states do not have the death penalty, and at least two states -- Illinois and New Jersey -- have formal moratoriums on capital punishment, according to the center.

An October Gallup poll showed 64 percent of Americans support use of the death penalty. But that is the lowest level in 27 years, down from a high of 80 percent in 1994.

Still, some powerful political forces are looking to speed up the trying and executing of prisoners. Both houses of the U.S. Congress are considering bills that would lessen the ability of defendants in capital cases to appeal to federal courts.

Proponents of the legislation say such appeals add up to 15 years to the process of executing a prisoner. Detractors say the law will not allow federal courts to review most cases and will result in innocent people being put to death.

Executing the innocent?

Since 1973, 122 prisoners have been freed from death row. The vast majority of those cases came during the last 15 years, since the use of DNA evidence became widespread. While there is no official proof an innocent person has been executed, opponents of the death penalty say the number of prisoners whose convictions have been reversed should fuel skepticism.

"I don't think any rational person seriously examining the evidence can have any confidence that an innocent hasn't already been executed," said Scheck.

Using post-conviction DNA evidence, the Innocence Project has helped in more than half of the 163 cases vacated -- 14 of which were from death row. "We've demonstrated that there are too many innocent people on death row," Scheck said.

But that argument does not impress Charles Rosenthal, district attorney for Harris County, Texas, which has sent more prisoners to the death chamber -- 85 -- than any other U.S. county and all but two states, Texas and Virginia, according to Texas Department of Criminal Justice statistics.

"I don't know about every death penalty case in Texas, but I feel quite sure that no one that this office has had anything to do with was factually innocent," Rosenthal said.

Scheck believes Rosenthal's claim is based "more on faith than fact." He noted that the police DNA lab in Houston has been shut down since 2002 because an investigation found problems with poor training and contaminated evidence.

"What kind of confidence can you have when the jurisdiction that executes more people than any other is fraught with unreliable testing results?" Scheck said.

Questions raised

In at least two cases, questions are being raised about whether an innocent person was put to death. In St. Louis, Missouri, Larry Griffin was convicted for the 1980 fatal shooting of a 19-year-old drug dealer, Quintin Moss. He was executed in 1995. His conviction largely rested on the testimony of a career criminal who was in the Federal Witness Protection Program. Now, a policeman whose testimony backed up the criminal's story says the man was lying, and Moss' own family thinks Griffin was innocent.

In Texas, the case of Ruben Cantu, who was executed in 1993, also is receiving attention. Cantu was convicted in 1985 of killing a man and wounding another during a robbery attempt that happened the previous year, when he was 17. A decade after his execution, however, the only witness in the case and Cantu's co-defendant have both come forward to say he was innocent. ([Full story](#))

In St. Louis, City Circuit Attorney Jennifer Joyce has led a review of 1,400 cases to see if DNA evidence can prove the guilt or innocence of those convicted. With only 12 cases left to review, evidence led to the exoneration of just three men, none of whom were on death row.

"Most of the time there is testing, it confirms the guilt of the defendant," Joyce said.

Virginia Gov. Mark Warner is examining Lovitt's case, and could decide whether or not to grant clemency over the weekend. It would be the only likely way Lovitt could avoid execution. In October, the U.S. Supreme Court refused to reconsider the case.

DNA tests on the scissors used in the stabbing were inconclusive, and the scissors were later thrown away because of a lack of storage space. One of his lawyers, former independent counsel Kenneth Starr, said though he supports the death penalty in principle, it should not apply to Lovitt for reasons "including -- above all right now -- the destruction of the DNA evidence."

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