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France Will Not Extradite if Death Penalty Is Possible By JOHN KIFNER • Court to Review Death Penalty for Mentally Retarded (Mar 26, 2001) • Death Penalty Reform (Mar 12, 2001) • Public Lives: A Proud and Unwavering Believer in the Death Penalty (Feb 10, 2001) Find more related articles by selecting from the following topics:

Officials in the United States face a significant legal snag before they can bring to trial a man accused of killing a Buffalo doctor who provided abortions. The suspect, James C. Kopp, was arrested Thursday after a two-and-a-half-year search tracked him to a French seaside village. But French law forbids the extradition of anyone who could face the death penalty, and French officials said yesterday that Mr. Kopp, an anti-abortion activist, would not be turned over to the United States unless they were given guarantees that he would not be executed. “ They will refuse to extradite him,” the local prosecutor, Christian Lecrom, said in a news conference yesterday in Dinan, a small pleasure port in Brittany, in the northwestern part of the country, where Mr. Kopp was arrested by French police on Thursday. In Paris, a representative for the Ministry of Justice, Frdrique Wagon, said that no exceptions had been made to the French law against granting extradition in potential capital punishment cases. France abolished its death penalty in 1981. Several other countries, including Canada, also refuse to turn over defendants who might face execution. Mr. Kopp, a longtime anti-abortion protester known among his colleagues as Atomic Dog, is charged with the October 1998 killing of Dr. Barnett A. Slepian. Dr. Slepian was fatally shot in the kitchen of his Amherst, N. Y., home as he warmed soup in front of his wife and son. A federal indictment charges Mr. Kopp with violating a 1993 law protecting access to abortion clinics and with using a weapon in a violent crime that resulted in death —

the potential death penalty provision. A separate Erie County indictment charges him with second-degree murder, which is not a capital crime in New York. An official with the Justice Department said efforts had begun to return Mr. Kopp to the United States under a treaty arrangement in which federal prosecutors have 40 days to submit information to persuade French authorities to extradite Mr. Kopp. Louis J. Freeh, the director of the Federal Bureau of Investigation, said on Thursday that “ we expect he will be extradited.” But, Mr. Freeh noted, “ There’s a lot of restrictions in the treaty with respect to the penalty. These are diplomatic issues that have to be determined.” George P. Fletcher, the Cardozo Professor of Jurisprudence at the Columbia Law School and a former prosecutor, suggested that American officials might give assurances to the French that the death penalty would not be invoked. He said such agreements had been made in cases involving extradition from Canada and Mexico. “ They don’t like it to be known,” he said, “ but prosecutors agree in advance not to impose the death penalty.” Justice Department officials said that there had been no decision on whether to seek the death penalty. A Justice Department official said determining whether to seek the death penalty begins with a recommendation by the local United States attorney. It is followed by a review by a capital punishment committee in the Justice Department and a final decision by the attorney general. This procedure cannot begin, the official added, until the defendant is represented by a lawyer. Officials said the Justice Department’s Office of International Affairs would be handling discussions with the French. Discussions are also under way in Buffalo between the United States attorney for the Western District of New York, Denise E. O’Donnell, and the Erie County prosecutor, Frank J. Clark, over jurisdiction in the case. In the

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Oklahoma City bombing, for example, the federal prosecution went first. But New York's double jeopardy laws mean that an initial federal case would preclude a state trial, a law enforcement official said. A Canadian arrest warrant was issued for Mr. Kopp last year, charging him with the 1995 sniper shooting of an abortion provider in his home in Ancaster, Ontario, wounding him in the elbow. Mr. Kopp is also a suspect in three similar shootings.

Kathleen Mehlretter, the first assistant United States attorney in Buffalo who has been supervising the investigation since the shooting of Dr. Slepian, said that "our investigation is definitely continuing to determine whether or not other people assisted him." On Thursday, F. B. I. agents arrested two other anti-abortion activists, Dennis J. Malvasi and Loretta C. Marra, at what prosecutors called a "safe house" in East New York, Brooklyn, for aiding Mr. Kopp in his flight. Mr. Kopp was seized by French police as he waited in the Dinan post office, officials said, for a money order from the couple to pay for his return to America. Law enforcement officials became interested in Ms. Marra as they checked the records of Mr. Kopp's many arrests in anti-abortion protests and identified those who had been arrested with him. Ms. Marra was jailed with Mr. Kopp after protests against Planned Parenthood in Burlington, Vt., in 1990, and they shackled themselves together during a Long Island protest.

Justices Return to Old Case of Condemned Retarded Killer
By LINDA GREENHOUSE • Justices to Review Issue of Executing Retarded Killers (Mar 27, 2001) • Court to Review Death Penalty for Mentally Retarded (Mar 26, 2001) • Missouri Set to Execute Retarded Man (Mar 06, 2001) Find more related articles by selecting from the following topics: ASHINGTON, March 27 — Although the Supreme Court changed the landscape of the death penalty debate on Monday when it agreed to decide the

constitutionality of executing mentally retarded murderers, that was scarcely apparent in a separate death penalty argument at the court this morning. The justices were considering, for the second time, the case of Johnny Paul Penry of Texas, perhaps the country's best-known retarded death row inmate. Twelve years ago, while refusing to declare capital punishment unconstitutional as applied to the retarded, the Supreme Court set aside Mr. Penry's sentence on the ground that Texas law did not permit the jury to give full consideration to a defendant's diminished intellectual functioning as a factor mitigating against a death sentence. In 1990, Mr. Penry was once again sentenced to death for the murder of a young woman in 1979. The question for the Supreme Court now is whether the amended instructions the jury received adequately addressed the deficiency the justices identified in their earlier decision. Mr. Penry's lawyers did not bring back to the Supreme Court this time the broader question of whether the Eighth Amendment's prohibition of cruel and unusual punishment bars execution of the retarded, and it is not until the fall that the justices will take that up in the North Carolina case they accepted on Monday. So the argument today proceeded in a kind of vacuum. Neither the justices nor the lawyers mentioned that another case was pending that could subsume the Texas jury instruction issue. Instead, Robert S. Smith, Mr. Penry's lawyer, told the court that the jury at the second sentencing trial was still unable to take full account of the defendant's retardation and "lifelong history of really gruesome child abuse." In fact, the verdict form that Mr. Penry's second jury received was the same one given to the jurors in the first trial. It contained three questions for the jurors. First, was the conduct that caused the victim's death deliberate? Second, did the defendant present a continuing threat to society?

Third, was the conduct that caused the death unreasonable in response to any provocation by the victim? The only difference was an instruction by the judge that if the jurors wanted to give effect to any mitigating circumstances by imposing a life sentence rather than a death sentence, they should answer “ no” to any one of the three questions. The jury answered yes to all, and the judge then reimposed a death sentence on Mr. Penry, whose I. Q. has been measured at 51 to 63. Experts generally consider an I. Q. of less than 70 to be evidence of mental retardation. The next year, 1991, Texas amended its death penalty law to instruct the jury explicitly that a death sentence cannot be imposed if there are “ sufficient” mitigating circumstances to warrant a life sentence instead. Only Mr. Penry and a handful of other defendants went before juries during a brief period in which the jurors were advised, in effect, that the only way to avoid a death sentence was to answer “ no” to one of three specific questions even if their actual answer was “ yes.” Such an instruction was “ awkward, to say the least,” Justice Sandra Day O’Connor told Andy Taylor, a Texas assistant attorney general. Justice David H. Souter told Mr. Taylor that the instruction in effect told the jury, “ You may act irrationally.” Justice Antonin Scalia, on the other hand, was untroubled by the instruction and refused to concede it might have been at all problematic. “ We assume that even if the defendant is mentally deficient, the jury is not,” he told Mr. Penry’s lawyer. “ That instruction seems clear enough to me.” Given the court’s rapidly changing focus, it is possible that Penry v. Johnson, No. 00-6677, could have its greatest impact not on death penalty law but on the habeas corpus law, governing the jurisdiction of federal courts to hear constitutional challenges to a conviction or sentence. Congress sharply curtailed the federal courts’

habeas corpus jurisdiction in a 1996 law that the Supreme Court is still in the process of interpreting. The justices permitted a lawyer for the State of Alabama to argue today as a friend of the court on behalf of Texas that the court should use the Penry case to limit federal judges' discretion further. It did not matter for the purposes of habeas corpus review whether the jury instructions were incorrect or could have been better, the lawyer, Gene C. Schaerr, told the justices, as long as they were reasonable. Justice Stephen G. Breyer expressed alarm at this argument, saying, " I'm worried about the implications there for compliance by a state with the mandate of the Supreme Court." Justices to Review Issue of Executing Retarded Killers By LINDA GREENHOUSE • Justices Return to Old Case of Condemned Retarded Killer (Mar 28, 2001) • Court to Review Death Penalty for Mentally Retarded (Mar 26, 2001) • Missouri Set to Execute Retarded Man (Mar 06, 2001) Find more related articles by selecting from the following topics: ASHINGTON, March 26 — The Supreme Court announced today that it would decide whether a growing national consensus against the execution of mentally retarded murderers meant that such executions should be deemed unconstitutional as " cruel and unusual punishment" in violation of the Eighth Amendment. The case, to be argued next fall, could produce the court's most important ruling on the death penalty in years. Experts say about 10 percent of the 3, 600 prisoners on death row are mentally retarded, meaning they have I. Q. scores of less than 70. To decide the issue, the court agreed to hear an appeal by an inmate on North Carolina's death row, Ernest P. McCarver, with an I. Q. of 67. Twelve years ago, the last time the Supreme Court considered the question, only two states with the death penalty, Georgia and Maryland, barred execution of the retarded. " There is

insufficient evidence of a national consensus against executing mentally retarded people convicted of capital offenses for us to conclude that it is categorically prohibited by the Eighth Amendment,” Justice Sandra Day O’Connor said in her 1989 opinion for the court, which voted 5 to 4 to reject a constitutional challenge to the death penalty by a retarded Texas inmate, Johnny Paul Penry. Since then, 11 more states have rejected the death penalty for retarded killers, and others are considering legislation to do so. When states without the death penalty are included in the count, half the states no longer execute mentally retarded killers. “ The national consensus against the execution of the mentally retarded has now emerged,” Mr. McCarver’s lawyer told the justices in the appeal that the court agreed today to hear. The court had issued a stay on March 1, when Mr. McCarver was within hours of being executed. “ It is time for this court to assess whether American society has changed significantly over the past decade so that the execution of the mentally retarded now violates American standards of decency,” the lawyer, Seth R. Cohen of Greensboro, N. C., said in the appeal, *McCarver v. North Carolina*, No. 00- 8727. The Supreme Court looks at “ evolving standards of decency” to determine whether a punishment is cruel and unusual. Under that test of social consensus, the court in recent years has ruled out execution of the insane, of rapists not also convicted of murder and of murderers younger than 16. The grant of review was a surprise because the court had appeared to be moving by small steps on the retardation issue. Mr. Carver was convicted in 1987 of robbing and murdering a fellow cafeteria worker in Concord, N. C. On Tuesday morning, the justices will hear arguments for the second time in the case of Mr. Penry, the inmate whose earlier appeal led the court to reject the broad attack on

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executing the retarded. In the 1989 Penry ruling, the court vacated his death sentence on the narrower ground that the Texas death penalty law turned his retardation into a double-edged sword, possibly persuading jurors that his inability to control violent impulses made him especially dangerous and thus a candidate for execution. After a new hearing in Texas, Mr. Penry was again sentenced to death, and the issue before the justices on Tuesday will be whether the instructions to the jury in response to the first Penry ruling allowed the jury to use retardation as a reason to view him as less, not more, deserving of the death penalty. Mr. Penry's new appeal, *Penry v. Johnson*, No. 00-6677, does not present the broader constitutional issue. In light of the court's action today, it is not clear what the justices will do in Mr. Penry's case, because the issue of the jury instructions is irrelevant if the Eighth Amendment bars the execution of the retarded. A decision in the Penry case would ordinarily come by the end of the court's term in late June. The McCarver case will not be argued until the new term begins next fall. It might not be decided until early 2002. Executions of retarded killers are unlikely to occur while the McCarver case is awaiting a decision. Earlier this month, the justices granted a stay of execution to Antonio D. Richardson, a retarded man on Missouri's death row. The court took no further action on that case today. The stay is likely to remain until the court decides the McCarver case. Under North Carolina law, the jury in Mr. McCarver's case was permitted to weigh his retardation as mitigating against the death penalty. The jurors found that Mr. McCarver, then 26, functioned "intellectually as a 10- or 12-year-old" but that evidence of premeditation outweighed his retardation and other mitigating evidence. In urging the Supreme Court to reject the appeal, the North Carolina attorney general's office said that while Mr. McCarver

demonstrated “borderline” intellectual functioning, he was not retarded and that the question was not properly part of his appeal. Before accepting the case today, the Supreme Court had turned down two earlier appeals from Mr. McCarver, one in 1996, after the North Carolina Supreme Court affirmed the conviction and sentence, and another last Jan. 8. In the latter appeal, Mr. McCarver had sought review of a denial of a writ of habeas corpus by the United States Court of Appeals for the Fourth Circuit, in Richmond, Va. After that, North Carolina scheduled Mr. Carver’s execution for March 2. He won a stay of execution from a state trial judge, which was vacated on the same day by the North Carolina Supreme Court. The appeal that the justices allowed today is from the North Carolina Supreme Court’s refusal on Feb. 27 to consider Mr. McCarver’s constitutional challenge to his execution.

F. B. I. Agent Charged as Spy Who Aided Russia for 15 Years By DAVID JOHNSTON•In Russia, a Rave Begins With a Mystical Voyage (Jul 16, 2000)•Putin Wins Russia Vote in First Round, But His Majority Is Less Than Expected (Mar 27, 2000)•Russia Power-Sharing Deal Settled, Then Seems to Fail (Aug 31, 1998)Find more related articles by selecting from the following topics: United States Armament and DefenseUnited States Politics and GovernmentASHINGTON, Feb. 20 — A senior F. B. I. agent who worked as a counterintelligence supervisor at the agency’s headquarters was charged today as a spy who passed highly classified information to Russia for 15 years without being detected. Law enforcement officials described the case as an extremely grave breach of national security. The agent, Robert Philip Hanssen, 56, was accused of turning over to Moscow a huge array of secrets, including the identities of three Russian agents who had been secretly

recruited to spy for the United States. Two of the Russians were subsequently tried and executed; the third was imprisoned and later released. In return, F. B. I. officials said, the Russians paid Mr. Hanssen a total of \$1. 4 million. The money was paid in cash, often stacks of \$100 bills, delivered in plastic trash bags to clandestine drop-off sites in suburban Virginia, the officials said. Other payments, they said, were made in untraceable diamonds and deposits into a bank account that the Russians told Mr. Hanssen that they had opened for him in Moscow. He was arrested early Sunday evening in a suburban Virginia park minutes after he had dropped off a bag of classified documents, officials said. A bag containing \$50, 000 was waiting for him in a hidden location at a nearby park, they said. The F. B. I. director, Louis J. Freeh, suggested today that Mr. Hanssen succeeded in eluding detection for as long as he did because he used his intimate knowledge of the F. B. I.'s counterintelligence techniques and spent hours at his office computer entering his name into classified F. B. I. databanks to determine whether he had fallen under suspicion. Mr. Hanssen was not suspected of espionage until late last year. In addition, officials said, Mr. Hanssen never told the Russians his real name, instead calling himself Ramon. They said he did not identify himself to the Russians as an F. B. I. agent and refused to meet face-to-face with his contacts. He would not travel outside the country to pass information and did not appear to live a lavish lifestyle. Although the F. B. I.'s internal security personnel have the ability to track each agent's use of F. B. I. computerized crime files, Mr. Hanssen's use of the databases was never questioned. Mr. Hanssen's arrest confronted the Federal Bureau of Investigation with a serious security lapse and one of its most embarrassing counterintelligence failures in recent years. The bureau is

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the principal federal agency responsible for ferreting out spies against the United States. Over the years, Mr. Hanssen received several promotions, rising through the F. B. I.'s counterintelligence ranks even while, officials said, he was secretly supplying the Russians with highly classified data after 1991 when the Soviet empire collapsed. “ The trusted insider betrayed his trust without detection,” Mr. Freeh said. Plato Cacheris, Mr. Hanssen’s lawyer, said that as of now his client would plead not guilty to the charges, but added that the case was still in its early stages. Mr. Cacheris suggested that the government’s case might not seem as solid as it appeared, saying that prosecutors “ always talk like they have a great case, but we’ll see.” An F. B. I. affidavit filed in support of the charges against Mr. Hanssen, which was unsealed today, said he began his espionage in 1985 and spied undeterred for the Soviet Union and, after its collapse, for Russia. It said he continued apparently unfazed by the many changes Mr. Freeh imposed to strengthen counterespionage efforts in the aftermath of the case against Aldrich H. Ames, the C. I. A. officer sentenced to life in prison in 1994 as a spy for Moscow. The affidavit, nearly 100 pages long, provided an unusually detailed narrative account. It included details intended to support the bureau’s view that Mr. Hanssen had a long career as a Soviet spy, listing the dates that officials said he had contacts with the Russians, the texts of letters officials said he wrote to Russian officials, the payments officials said he received and the nature of the material he provided Moscow. Law enforcement officials said the F. B. I. had secretly obtained the bulk of Mr. Hanssen’s espionage file from the Russian intelligence service, which they said was in itself a counterintelligence coup for the United States. Mr. Freeh said Mr. Hanssen’s arrest was unrelated to the defection last October of

Sergei Tretyakov, a Russian diplomat at the United Nations. Later, law enforcement officials said it was not Mr. Tretyakov who cast suspicion on Mr. Hanssen. Today, Mr. Freeh would not discuss how the F. B. I. learned of Mr. Hanssen's activities or why they had not been discovered sooner. He also would not say whether Mr. Hanssen had ever been subject to screening procedures like polygraph examination. Lie-detector tests are routinely given to F. B. I. employees who handle highly sensitive information and are authorized to deal with other countries or intelligence agencies. Mr. Freeh said Mr. Hanssen's activity " represents the most traitorous actions imaginable." He said the F. B. I. had not yet determined the full extent of the damage because agents did not want to risk tipping their hand by beginning such a review while the investigation was under way. Even so, Mr. Freeh said of the suspected damage, " We believe it was exceptionally grave." It was evident today that F. B. I. officials were bracing for what they expect to be stinging criticism in the days ahead. Mr. Freeh said his agency had agreed to the appointment of a high-level panel that will assess the extent of the damage and review security procedures at the F. B. I. The panel will be led by William H. Webster, a former director of central intelligence and the Federal Bureau of Investigation. As a reflection of the seriousness of the case, President Bush read a statement to reporters traveling with him on Air Force One, saying, " This has been a difficult day for those who love our country, especially for those who serve our country in law enforcement and intelligence." He added, " To anyone who would betray its trust, I warn you, we'll find you and we'll bring you to justice." Attorney General John Ashcroft issued a statement that said in part, " Individuals who commit treasonous acts against the United States will be held fully accountable." Technically,

however, Mr. Hanssen was not charged with treason, but with espionage and conspiracy to commit espionage for allegedly passing classified information to a foreign power. Treason is a separate crime of passing secret military information to a country at war with the United States. Prosecutors in Mr. Hanssen's case could seek the death penalty because of the deaths of the two Russian agents, in addition to fines of up to \$2.8 million, twice the amount he is believed to have received from his spying. Justice Department officials have not said whether they will seek the death penalty. Mr. Hanssen, a married father of six, has been held in a detention center in Virginia since his arrest at a park near his home in the Washington suburb of Vienna, Va. He was arraigned today in a Federal District Court in Alexandria, Va. Mr. Freeh was in the F. B. I.'s command center at the agency's headquarters when Mr. Hanssen was arrested as he returned to his car after dropping off a package of classified documents, law enforcement officials said. Mr. Hanssen was "shocked and surprised," Mr. Freeh said, but he did not resist arrest. Agents were exultant after the successful arrest, but the mood in the command center quickly turned somber as F. B. I. officials realized that it was one of their own agents who had just been taken into custody. It was Mr. Freeh who proposed the outside inquiry into the F. B. I.'s internal security procedures, a suggestion accepted by Mr. Ashcroft. Although the accusations against Mr. Hanssen are by far the most serious against an F. B. I. agent, he is not the first agent to be accused of spying. In 1997, Earl Pitts, who was stationed at the F. B. I. Academy in Quantico, Va., was sentenced to 27 years in prison after admitting he spied for Moscow during and after the cold war. Richard W. Miller, a Los Angeles F. B. I. agent who was caught spying, was arrested in 1984 and later sentenced to 20 years in prison. His sentenced

was reduced to 13 years, and he was released in 1994 after serving nine years. Today, the government's affidavit said Mr. Hanssen volunteered to spy for Moscow in October 1985 when he was working as the supervisor of a squad that was responsible for the electronic monitoring of Russians in the vicinity of New York. He sent a secret letter to Victor I. Cherkashin, the same official at the Russian Embassy in Washington who acted as the contact for Mr. Ames, the career C. I. A. officer who walked into the Soviet Embassy in May 1985. In the letter, Mr. Hanssen said he was aware that " your service has recently suffered some setbacks." Then, in an apparent effort to demonstrate that the intelligence he could offer was genuine, he identified Boris Yuzhin, Sergei M. Motorin and Valery F. Martinov, all Russian agents who had been recruited to spy for the United States. By then, all three had already been identified by Mr. Ames, but by passing these names to the Russians, Mr. Hanssen could be sentenced to death because Mr. Motorin and Mr. Martynov were later convicted in Soviet courts and executed for their actions. The affidavit appears to clear up what counterintelligence officials have long said was a mystery that had perplexed them since 1989 when a covert investigation began into Felix S. Bloch, a State Department employee suspected of espionage. The affidavit said that Mr. Hanssen compromised the investigation by alerting the Russians that the F. B. I. suspected Mr. Bloch of meeting in 1989 with a Soviet agent in Paris and Brussels. As a result, Mr. Bloch denied he had ever engaged in spying and declined to answer any questions and the F. B. I. inquiry collapsed. Mr. Hanssen, whom the Russians referred to only as B, wrote articulate messages to his handlers that reflected his knowledge of spying, his need for anonymity and the risks he faced, the affidavit said. In one message in July 1988, he wrote about his

strict precautions to avoid detection. “ My security concerns may seem excessive,” he wrote. “ I believe experience has shown them to be necessary. I am much safer if you know little about me. Neither of us are children about these things.” Over the years, Mr. Hanssen turned over information about “ dozens of United States government classified documents,” including some involving the government’s double-agent program, a study on K. G. B. recruitment operations against the C. I. A., an analysis of K. G. B. operations and “ a highly classified and tightly restricted analysis of the foreign threat” to a top-secret American program. In addition, the affidavit accused him of compromising electronic surveillance methods. Of Mr. Hanssen’s actions, Mr. Freeh said, “ The F. B. I. entrusted him with some of the most sensitive material of the United States government and instead of being humbled by this honor, Hanssen allegedly abused and betrayed that trust.” Boris N. Labusov, spokesman for Russia’s Foreign Intelligence Service, said tonight on Russian television, “ There is an old home truth,” in the intelligence business, “ that intelligence successes become known after a failure.” “ As long as intelligence services exist,” Mr. Labusov said, “ there will be always a threat of disclosures of the people working for one or another of such services. And there will be disclosures, but I would not call it a usual practice. When a spy scandal is elevated to a political level, it is necessary to understand who and what is behind it, who derives benefits from it.”

Detailed Plans for ‘ Efficient’ McVeigh Execution
LOS ANGELES (Reuters) – U. S. prison officials have drawn up meticulous plans for executing Oklahoma City bomber Timothy McVeigh (news – web sites) detailing everything from the time of his last meal, the clothes he will wear and plans to counter a possible assault on the jail by sympathizers or angry

victims. A 54-page protocol document prepared by the U. S. Bureau of Prisons and published by the Los Angeles Times on Thursday, sets out minute-by-minute instructions for staff at the Terre Haute, Ind., federal prison where McVeigh will be put to death by lethal injection on May 16 for the April 1995 bombing of an Oklahoma City federal building that killed 168 people. The exact timing of the execution has yet to be set. According to the document, prison officials want to ensure that the man convicted of the worst act of terrorism on U. S. soil meets his end " in an efficient and humane manner" and in a way " that minimizes the negative impact on the safety, security and operational integrity" of the prison. Hundreds of journalists, protesters and anti-government activists are expected to gather outside the prison for the execution. McVeigh enraged victims last week when he admitted in a new book that he pulled off the bombing and viewed the 19 children killed in the attack as " collateral damage." The document reflects concern over a series of possible disturbances on or near the execution date, ranging from rescue attempts by anti-government sympathizers to a sudden act of vengeance by any of the victims or disturbances by other prison inmates. McVeigh, 32, has said he carried out the bombing in revenge for the FBI (news – web sites)'s bloody showdown with the Branch Davidian sect in Waco, Texas, two years to the day before the April 19, 1995 Oklahoma City blast. Contingency plans include the creation of a command center at the prison, special law enforcement teams, and joint training exercises to beef up security. Phone lines and communication systems will be tested in the event of any last-minute appeals or interventions, although this is considered unlikely since McVeigh last year requested that all appeals be dropped. McVeigh will be dressed in

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khaki pants, shirt and slip-on shoes 30 minutes before the execution and escorted — or shackled and carried if he resists — from a holding cell to the execution room. The document instructs prison staff to “ prevent emotion or intimidation” from hindering them in their duties. Some 30 witnesses — six of them chosen by McVeigh, some media representatives and a number of victims — will watch through the windows of an adjoining room as McVeigh, strapped onto a gurney, is asked whether he wishes to make a last statement. Officials have already advised him that any statement should be kept “ reasonably brief”. He will then be injected with a lethal mixture of sodium pentothal, pavulon and potassium chloride. Death is expected to be swift

In a press conference yesterday, Attorney General John Ashcroft announced that the execution of Timothy McVeigh on May 16 in Terre Haute, Ind., would be televised via a live, encrypted, closed- circuit telecast. It will be shown in an unnamed facility in Oklahoma City for families of the victims who were killed in the 1995 bombing of the Murrah Federal Building. The telecast will not be recorded. Instead it will be, as Mr. Ashcroft put it, “ instantaneous and contemporaneous,” leaving no permanent record for others to view.

This is a warrantable solution to a basic logistical problem — the sheer number of direct victims of Mr. McVeigh’s crime. The Federal Bureau of Prisons, which allows the families of victims to witness an execution, has increased the number of such witnesses allowed at the prison in Terre Haute to 10. But it was impractical to accommodate on-site all interested relatives of the 168 people who died in Oklahoma City, and many of them would be hard pressed to make the journey to another state in any case. Thus Mr.

Ashcroft made the sensible decision to allow the execution to be transmitted on closed-circuit television to this group. There is no telling what emotions the survivors and victims' families will feel when they watch that telecast. There is no knowing whether seeing Mr. McVeigh's death will satisfy those who want revenge or bring closure to those who are seeking it. That is for them to understand as best they can.

Mr. Ashcroft was surely right to bar televising the execution for the general public. Under most circumstances, we believe such decisions belong in the hands of the news media, not the government. In this situation, however, the very act of permitting television cameras for general public broadcast would make a cruel and unusual spectacle of the legally mandated sentence. Such broadcasts would be different in kind from those parts of the legal process — including court trials — that should be regularly televised. Mr. McVeigh has said he would like his execution to be broadcast, but it is the standards of a civilized society that should govern, not his opinion. This page opposes the death penalty for many reasons, most of which need no rehearsal here. But by publicly televising Mr. McVeigh's execution, broadcasters would be showing the very kind of act — the taking of a human life — for which Mr. McVeigh is being executed. The telecast would appeal to the basest instincts of the viewing public, and would inevitably coarsen our society.

The government stopped conducting public executions in the early 20th century for much the same reason that it will use lethal injections rather than more brutal technologies to kill Timothy McVeigh — to reinforce the distinction between a lynching and a soberly considered act of duly authorized justice. The last federal execution occurred in 1963, and the

Supreme Court declared the death penalty unconstitutional in 1972. But now, under a subsequently enacted death penalty statute, we are drifting backward and resuming federal executions by putting to death Mr. McVeigh. It is essential to drift backward no further by making the execution a public spectacle.

As a rule, this page supports the goal of ensuring media access — including camera access — to newsworthy events, a principle that, to some people, might justify televising this execution. We believe, however, that in the extraordinary case of Mr. McVeigh's execution the public interest will be well served by the presence of 10 media witnesses who will be in the federal prison in Terre Haute along with the family members, although without television cameras. What might be gained by publicly televising this man's death would be very hard to balance against its ultimate cultural cost.

Texas Steps Toward Death Penalty Referendum Expanded Coverage In Depth: Criminal Justice Join a Discussion on The Death Penalty OUSTON, April 11 — In a surprising vote in the state that leads the nation in putting inmates to death, a committee in the Texas Legislature today endorsed a resolution that would allow voters to decide whether to impose a two- year moratorium on executions while an independent commission examined the fairness of the capital punishment system.

The vote by the Senate Criminal Justice Committee comes as legislators are considering a host of death penalty changes, partly in response to the intensive and critical scrutiny of the state's capital punishment in last year's presidential campaign of Gov. George W. Bush. Texas was criticized for

failing to provide adequate legal counsel for poor defendants, for executing mentally retarded defendants and for a clemency process shrouded in secrecy.

“ No Texan wants to be a party to the execution of an innocent man or woman,” Senator Eliot Shapleigh, a Democrat from El Paso who sponsored the bill, said in a statement.

The committee vote is only a first step. The resolution must now pass the Senate, then the House and receive the signature of Gov. Rick Perry.

Mr. Perry’s aide, Gene Acuna, said this afternoon that the governor opposed a moratorium and would not likely sign a bill. Legislators could override the governor with a two-thirds majority vote, Mr. Acuna said.

“ The governor believes that the criminal justice system is good, and there are ways to improve it, but a moratorium of the death penalty in Texas is not one of them,” Mr. Acuna said. Mr. Acuna cited a law recently signed by Mr. Perry allowing criminal defendants and inmates access to DNA testing as an example of the improvements the governor favored.

For years, Texas voters have overwhelmingly supported capital punishment. But recent polls also have revealed that a majority of Texans supported the concept of a moratorium so that the fairness of the system could be examined. Polls also showed that a majority of Texans believe that an innocent person has been executed.

Mr. Shapleigh noted that the committee actually approved two bills today, one to establish the commission to “ fix what we now recognize as flaws,”

another to call for a moratorium vote. It is not yet certain when the bills will be voted on by the full Senate.

Maurie Levin, a lawyer with Texas Defender Service, a group that represents capital defendants, said the committee vote was startling and seemed to suggest some shifting in attitudes among legislators. “It’s tremendous,” she said. “It’s a recognition of all the problems in the system that have been exposed over the past year.” Asked to assess the chances of passing both chambers, Ms. Levin added: “I don’t know. I don’t think we would have ever thought it would get out of committee.”

Widow’s Quandary: Death Penalty or U. S. Trial? • France Arrests Foe of Abortion in 1998 Murder (March 30, 2001)

UFFALO, March 31 — Lynne Slepian, the widow of Dr. Barnett A. Slepian, favors execution for the anti-abortion activist accused of murdering her husband, but said a trial in the United States should be the priority.

James C. Kopp, 46, was arrested Thursday in Dinan, France, two and a half years after the shooting of Dr. Slepian while the 52-year-old obstetrician who performed abortions made soup in the kitchen of his Amherst home.

Mr. Kopp awaits extradition in France, a thorny issue because the French have said they will not release him if he faces the death penalty in the United States. Ms. Slepian said she would gladly see the death penalty removed if it sped Mr. Kopp’s return to the United States.

“I’d like to see him dead, but I don’t want him to have the luxury of having a quick, painless death,” she told The Buffalo News in an article published today. “I’d like to see a slow, painful death. Lethal injection is too good for him.” Ms. Slepian said, “If the choice is between extraditing him and having

him face a life sentence without parole, or risking extradition to try him on the death penalty, I'd rather have him back here and face the music.”“ He should be put through a fraction of the anxiety he's put my kids and me through,” she told the newspaper. “ He will never get justice — what he deserves.” Oct. 23, 1998, the night Dr. Slepian was murdered — the shooting, the sight of the fallen doctor, cut down by a sniper's bullet, the trip to the hospital, his final breaths — is still a blur to Ms. Slepian. She does not remember many details but said she would never forget the vow she made that night. She said she promised her husband in the emergency room after they pronounced him dead that she would make sure the person who shot him was caught. “ And I promised my children he would be caught,” she said. “ At least I fulfilled my promise.” Mr. Kopp faces state and federal charges of murder and violating the federal Freedom of Access to Clinic Entrances Act by using deadly force against a doctor who performs abortions. Both charges carry a penalty of up to life in prison. The federal charge can bring the death penalty. Mr. Kopp is also a suspect in three nonfatal ambushes of doctors in Canada and one in a Rochester suburb.“ Now at least he can't terrorize any other families,” Ms. Slepian said.

She said that she never lost faith that Mr. Kopp would be captured.

“ All the law enforcement agencies the F. B. I., the state police, the U. S. attorney, Amherst police and everyone involved in this process never let up,” she said. Ms. Slepian said she would attend Mr. Kopp's trial if he was returned to the country as long as it did not interfere with the rearing of her four sons, who are 10 to 18 years old. She said that she would let them decide if they wanted to attend the trial.

Ms. Slepian talked about how bringing Mr. Kopp to justice might affect her sons. “ For the kids, maybe it will help,” she told the newspaper. “ But there’s no closure. They still don’t have their father.” State Bar Calls for a Halt to Capital PunishmentExpanded Coverage • In Depth: Criminal Justice • Join a Discussion on The Death PenaltyLBANY, March 31 — The New York State Bar Association called today for a moratorium on capital punishment until concerns about the conviction of innocent people and racial disparities in the use of the death penalty are addressed.

The group’s House of Delegates, meeting here, also endorsed giving judges wide discretion to allow cameras into their courtrooms, a reversal of its previous position that cameras should be allowed only when all sides in a case agree to it.

The call for a death penalty moratorium, approved on an overwhelming voice vote, marks the strongest statement the Bar Association has made on the administration of the penalty. The group has never taken a position on capital punishment.

“ Why would we be hesitant to speak out where people’s lives are at stake?” asked Vincent Doyle, chairman of the association’s criminal justice section.

But the debate exposed a deep rift between the majority and a group who feared that support for a moratorium would be widely seen as opposition to execution, and that it defied the association’s long tradition of shying away from sensitive political issues.

“ It is nothing more than a disguised referendum on capital punishment, an issue on which, in my view, we should not take a position,” said Steven C. Krane, president-elect of the association.

Supporters of the moratorium defeated attempts to derail it with postponements and a substitute resolution supported by the executive committee.

When Gov. George E. Pataki ran in 1994, reinstatement of the death penalty in New York was a central plank in his platform, and in 1995 he signed it into law. Since then, just six people have been sentenced to die in state courts, partly because the law applies more narrowly than most states’ death penalties, and partly because some district attorneys have been reluctant to use it.

The first execution under the law is not expected for years, after those who have been condemned exhaust their appeals. The state last executed someone in 1963.

“ We believe the death penalty is a good law that serves as a real deterrent, and we believe that it is part of the reason for the historic reduction in violent crime across the state,” said Suzanne Morris, a spokeswoman for the governor.

There has been a growing concern in the last few years about the application of the death penalty. The advent of DNA evidence and the work of private investigative groups have led to the exoneration of dozens of people on death rows across the country. The Republican governor of Illinois, George

Ryan, has suspended executions in that state, after 13 condemned inmates were proved innocent, and the bar associations of Illinois, Connecticut, New Jersey, Pennsylvania and Ohio have called for a moratorium, as has the American Bar Association.

Last year, a team led by James S. Liebman, a Columbia University law professor, found that in two-thirds of cases that resulted in a death sentence, appellate courts found errors by trial judges and prosecutors that were serious enough to reverse either the conviction or the sentence. Supporters of a moratorium have seized on that finding, while opponents say it proves that the system works, because the errors are discovered.

Also last year, the Justice Department issued a report stating that minority defendants were more likely to be sentenced to death, and finding regional disparities in the application of the death penalty.

Previously, the strongest position the state bar association had taken on the matter was a 1994 report saying that a death penalty law ought to contain certain elements. Some were included in the state law, but others were not, including a strict prohibition on executing people with mental disabilities, and allowing evidence of innocence to be introduced on appeal rather than just procedural questions.

In Illinois and other states, the primary criticism of capital convictions has been that the defendants had unskilled, overworked lawyers. New York addressed such concerns by creating the state-funded Capital Defender Office, which assists the defense in all death penalty cases.

On the issue of television and still cameras in the courtroom, the Bar Association was much more narrowly divided, approving the resolution on a 73-to-69 vote.

New York State experimented for years with cameras in court, under a temporary law that expired in 1997. Since then, Mr. Pataki and legislative leaders, while agreeing that cameras should be allowed, have been unable to agree on the details, like when and how to protect the identities of witnesses and jurors.

Lately, the law barring cameras has come under assault from the bench. Last year, the Albany judge presiding over the trial of four New York City police officers in the shooting of Amadou Diallo declared the law unconstitutional and permitted cameras to cover the trial. Neither side appealed that decision.

On Friday, a Sullivan County judge presiding in a capital case made a similar ruling.

Bibliography: