



Cruel and Unusual Punishment

## Overview of the Juvenile Death Penalty Today

*Our position is not grounded on sympathy, but rather on common decency and fundamental justice, and the notion that we should punish according to culpability. We should reserve the most severe punishment for the worst offenders. Executing child offenders is inconsistent with these concepts. This does not suggest that teenagers should not face punishment for violating society's laws. It does mean that they should not pay for their mistakes with their lives.... We dare not hold children accountable for their actions to the same degree as we do adults. To do so serves no principled purpose and only demeans our system of justice.*

Alfred P. Carlton Jr., President of the American Bar Association



Napoleon Beazley in 1998.

Photo Credit: Mike Moore/The Mirror

The events of May 28, 2002 embody the disparities and the changing debate concerning the juvenile death penalty. Christopher Simmons and Napoleon Beazley both committed murder at age 17. They were tried as adults and sentenced to death—Chris in Missouri, Napoleon in Texas. Each of the young men had spent approximately the same amount of time on death row. They both expressed great remorse for their crime and were model prisoners, participating in religious and community service programs through the prison. However, on this day, the Missouri Supreme Court granted Chris a temporary stay of execution, while the State of Texas executed Napoleon.

Although 81 offenders who were under age 18 at the time of

the offense are on death row nationwide in the United States, a growing number of U.S. states and nearly all countries have turned away from such executions in law or practice. Advocates have ample reason to hope that a final reckoning for the juvenile death penalty in the U.S. is in the near future.

### An Unusual Punishment

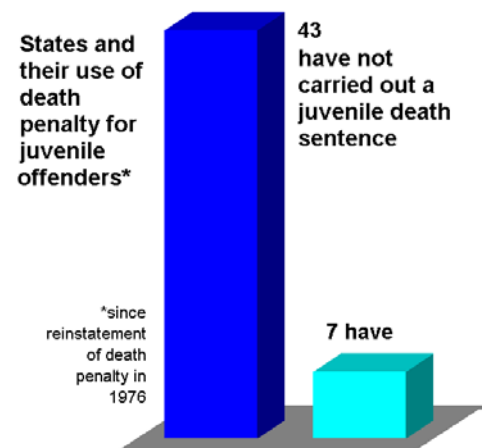
Presently, 28 states and the federal government prohibit by statute the execution of offenders under the age of 18. Of the 22 states that permit the execution of these offenders, only 15 have juveniles on death row, and only seven have used the punishment. A total of 21 offenders who were under the age of 18 at the time of the offense have been executed since reinstatement of the death penalty in 1976: Georgia, Louisiana, Missouri, Oklahoma and South Carolina have done so once; Virginia has three times; and Texas has thirteen times—more than all other states combined.

Montana and Indiana have been the most recent states to ban

the juvenile death penalty (1999 and 2002, respectively). Similar bills in Florida, Texas and Arkansas passed one house before stalling in the other. In the Spring of 2003, legislation was introduced in 13 states—the most activity on the issue in more than 20 years.

### Supreme Court Developments

The U.S. Supreme Court's June 2002 decision, *Atkins v. Virginia* has had a profound impact on the juvenile death penalty. In *Atkins*, the Court banned executions for the mentally retarded as a



violation of the Eighth Amendment, finding that “evolving standards of decency” indicate a national consensus against it. Juvenile justice advocates hope that this decision will lead to a reversal of *Stanford v. Kentucky* (1989) which, in a 4-1-4 vote, held that it was not unconstitutional to execute 17 year-old offenders. Advocates argue that the reluctance among 49 states to use the punishment, coupled with legislative developments, show that a national consensus exists.

### Developments Worldwide

Juvenile executions have all but ended around the world. The International Covenant on Civil and Political Rights and the U.N. Convention on the Rights of the Child expressly prohibit the death penalty for offenders under the age of 18. The European Union, United Nations, Mexico, Sweden, France and others have condemned the use of the juvenile death penalty in the U.S. In the last 10 years, China, Pakistan and Yemen have joined the majority of nations by banning the practice.<sup>i</sup>

In the last decade, the U.S. has executed more juvenile offenders than all other nations combined. In the last three years, the number of such nations has dropped to four: Iran, the Democratic Republic of Congo, Pakistan, and the United States.

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**More resources available at:**  
[www.abanet.org/crimjust/juvjust/juvdp.html](http://www.abanet.org/crimjust/juvjust/juvdp.html)

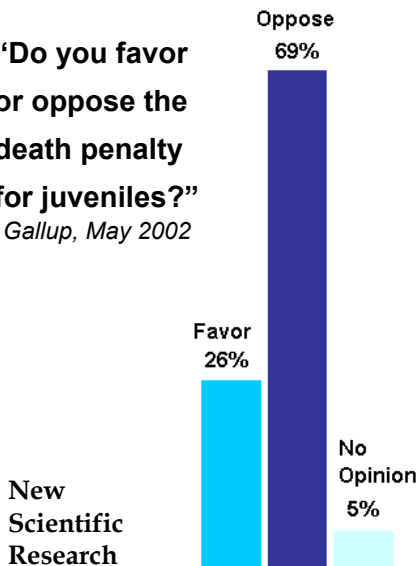
ABA Juvenile Justice Center:  
 Phone: (202) 662-1506  
 Written for the Juvenile Justice Center by  
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### Public Opinion

A May 2002 Gallup poll found that 69% of Americans oppose the death penalty for those under the age of 18. The poll found that while support for the death penalty for adults is high, support for the juvenile death penalty has remained low for more than 40 years.

**“Do you favor or oppose the death penalty for juveniles?”**  
 Gallup, May 2002



Magnetic Resonance Imaging (MRI) research by Harvard University Medical Center on adolescent brain development contradicts previously held beliefs that the brain is fully developed by age 14. These findings show that juveniles may lack the brain capacity to control impulses and make informed decisions, thereby providing scientific evidence for the argument that adolescents have a lesser degree of culpability than adults.

Such research reveals that the brain changes as one matures, that different parts change at different times, and that the frontal and pre-frontal lobes (which govern impulse control and judgment) change most dramatically between the ages of

12 and 22. Dr. Ruben C. Gur, Director of Neuropsychology at the University of Pennsylvania Health Center, writes:

*Increase in white [brain] matter continues well into late adolescence, and the frontal lobes are the last to myelinate [develop]. The behavioral significance of this neuroanatomical finding is that the very brain system necessary for inhibition and goal-directed behaviour comes “on board” last and is not fully operational until early adulthood (about 18-22 years).<sup>ii</sup>*

### Status of Recent Cases

In August 2002, Texas executed TJ Jones and Toronto Patterson. Antonio Richardson (MO), Chris Simmons (MO) and Ron Foster (MS) have received temporary stays as the constitutionality of their sentences is decided. Scott Hain (OK) has filed for certiorari, and awaits a response from the Supreme Court.

While the Supreme Court recently declined to hear the habeas petitions of Toronto Patterson and Kevin Stanford (KY), each case drew vigorous dissents. In the case of Stanford, Justice Stevens, joined by three others, wrote:

*The practice of executing such offenders is a relic of the past and is inconsistent with evolving standards of decency in a civilized society. We should put an end to this shameful practice.<sup>iii</sup>*

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<sup>i</sup> *Children and the Death Penalty Worldwide*: Amnesty International (2000).

<sup>ii</sup> Amicus brief by American Society for Adolescent Psychiatry, *Stanford v. Kentucky*, S.Ct. No. 01-10009.

<sup>iii</sup> *Stanford v. Kentucky*, 537 US \_\_\_\_ (2002).