

Women's eNews

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Texas Governor Stays Execution of Newton

By Sandy Kobrin, WeNews Correspondent

(WOMENSENEWS) – Due to a last-minute stay of execution by Texas Governor Rick Perry yesterday, Frances Newton did not become the first African American woman executed in Texas.

Instead, the 38 year-old accountant – convicted of the murder of her husband, 7-year-old son and 21-month-old daughter in 1987 – will rejoin the ranks of 50 other women on death row across the country.

There, according to a report released this week by the American Civil Liberties Union, Newton will share conditions and treatments that are often worse than for men on death row.

“We’re not saying that males have it cushy by any means,” said Rachel King, acting director of the Washington-based Capital Punishment Project of the ACLU, who drafted Newton’s appeal to the governor and who also spearheaded the ACLU report. “But the isolation, voyeurism and sexual harassment make it particularly bad for women.” Texas has carried out 23 executions thus far this year, and 336 since it resumed capital punishment in 1982. This represents almost 36 percent of the total executions carried out in the United States since a U.S. Supreme Court ruling permitted executions to resume in 1976.

In the appeal, King asked for a stay of 120 days so Newton’s new lawyers can have the time to properly investigate her claim of innocence; an investigation, they say, that has not been carried out to date because of the inadequacy of her prior legal representation.

Few Women on Death Row

Women on death row represent a minuscule portion of the death row population; 1.4 percent of about 3,500 people facing capital punishment. They are also a very tiny portion of the female prison population, which numbers about 50,000.

While minor in statistical significance, these women face major mistreatment, according to the ACLU’s report, “The Forgotten Population: A Look at Death Row in the United States Through the Experiences of Women.” The civil liberties group studied 66 women. Fifty six were on death row between April 2002 and December 2003. Ten have been executed since 1976.

Many of the women were sentenced for crimes that would not likely result in a death sentence for a man, according to the report.

In many states there is only one woman on death row, which puts them in an unusual level of isolation. The only contact they have with a human is an occasional interaction with a guard.

The women often suffered misconduct by prosecutors or law enforcement, such as sexual harassment by prison security guards who watch them while they use the toilet, shower or change clothes. The report also found that half of the women on death row acted with at least one other person, but in most of those cases, the co-defendant received a sentence other than death, even in cases where they appeared to be equally culpable.

The women often had inadequate legal representation, the report found, and King said this was true for Newton. King said Newton's court-appointed attorney failed to interview any witnesses in preparation for the trial.

King further contends that the state's case against Newton – who has maintained her innocence from the beginning – was based almost entirely on ballistics evidence processed at Houston's now-discredited crime lab.

The state maintained that the lower-front part of Newton's skirt contained nitrites, consistent with a gun having been fired close to it. However, concerns about the Houston Forensics Laboratory have caused several prominent Texans – including police chiefs and judges – to call for a moratorium on executions in cases where the forensic testing was done in the lab. All the evidence about the Houston labs has emerged since Newton lost her last appeal.

“The courts in Texas have been unwilling to open this door for her,” said King. “This is truly shocking. It's a new low, even for Texas.”

Conditions Worse for Women

The report also found that besides the harsher sentencing for similar crimes, the isolation and the harassment, more than half of the women had suffered regular, ongoing physical abuse by family members or spouses before being condemned to death.

“This gives further documentation to the intersections between state violence and domestic violence,” says Andrea Bible, project coordinator of San Francisco-based organization, Free Battered Women. “This report was done to bring to light the conditions of women on death row and to note that abuse has been a factor in most of the cases.”

“I would hope this report will increase the awareness to the fact that women are imprisoned for crimes that relate directly or indirectly to their experience of abuse. We hope the report will increase the public's attention and some of these women will have their cases reopened,” Bible added.

Little Known About Victimization

Sue Osthoff, executive director for the Philadelphia-based National Clearinghouse for the Defense of Battered Women, was one of the numerous contributors to the report. She says that working on the report made her realize how little was understood about the special stigma attached to victimized women and crime.

“For example, the types of crimes women do are different and we need to know how much gender plays on a juror’s decision to impose a death penalty,” Osthoff said.

The authors recommended 13 ways to improve conditions for women on death row and ensure they receive fair and adequate defense counsel when charged with capital offenses. These include training programs for defense lawyers to investigate abuse and raise the issue at trial; integrating women on death row into regular prison units and providing them with opportunities to work; adopting prison staffing policies to prevent abuse and amending the Prison Litigation Reform Act to provide women who are sexually abused in prison with access to the court.

“In the charge of sexual assault, an inmate has to ‘exhaust all remedies in the prison system,’ which may mean she has to complain to her abuser about the abuse before she can litigate,” King says, referring to cases of alleged prison-guard assault. “She may be unable to do that due to fear of retaliation. We need to get the exhaustion requirement lifted.”

Since 1973, 148 women have been sentenced to death in the United States. With 15 women facing capital punishment, California houses the most women on death row. Texas follows, with nine women on death row.

Women now facing capital punishment range in age from 22 to 73, according to the report issued this week. They have been held on death row for time periods ranging from a few months to nearly 20 years.

Sandy Kobrin is a Los Angeles based writer who specializes in writing about women’s issues and criminal justice.

For more information:

Houston Chronicle.com – Perry halts execution:
<http://www.chron.com/cs/CDA/ssistory.mpl/topstory2/2926518>

American Civil Liberties Union – The Forgotten Population: A Look at Death Row in the United States Through the Experiences of Women:
<http://www.aclu.org/DeathPenalty/DeathPenalty.cfm?ID=17085&c=68>

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