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## Blanket Clemency for Illinois Death Row Inmates

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FEATURE: Death Row Clemency

# BLANKET CLEMENCY FOR ILLINOIS DEATH ROW INMATES

By Kevin J. McCloskey

In his second to last day as Governor of the State of Illinois, George Ryan commuted the sentences to life in prison of all 164 inmates on Death Row in Illinois. In announcing his decision at Northwestern University School of Law on January 11, 2003 Ryan stated, "Because the Illinois death penalty system is arbitrary and capricious - and therefore immoral - I no longer shall tinker with the machinery of death. I won't stand for it...I had to act." Maurice Possley and Steve Mills, *Clemency for All*, CHI TRIB., Jan.

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***"The current Governor of Illinois, Rod Blagojevich, has called the decision of Ryan to issue blanket clemency a mistake."***

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12, 2003, at A1, A15.

The day before, Ryan pardoned four Death Row inmates, which resulted in the release of three men, Leroy Orange, Aaron Patterson, and Madison Hobley. An additional three inmates had their sentences shortened to 40-year terms.

Including the four inmates pardoned on January 10, 2003, 17 Death Row inmates have now been exonerated in Illinois based on actual innocence.

The elation of inmates and their families is starkly contrasted by the reaction of prosecutors and the families of the victims who were told by then-Governor Ryan in December that he was not leaning towards blanket clemency, but rather a case-by-case approach. Ryan informed the families of victims of his decision to grant blanket clemency in a letter delivered on the day he gave his speech at Northwestern Law School.

"Obviously, on behalf of the People of the State and the victims, I am disappointed with Governor Ryan's decision to issue blanket clemency rather than look at the cases individually," said Lisa A. Hoffman, the acting chief of the Criminal Appeals Division of the State of Illinois Attorney General's Office. By issuing blanket clemency she said, "it seems to lessen the credibility of the commutations."

Cook County State's Attorney Richard Devine responded by describing the decision as "stunningly disrespectful to the hundreds of families who lost their loved ones to these Death Row murderers." Maurice Possley and Steve Mills, *Clemency for All*, CHI TRIB., Jan. 12, 2003, at A1, A15. Devine's words express the belief that Ryan's decision only punishes the victims' family members as it forces them to reexamine painful memories.

William Peebles was convicted for the 1988 murder of Dawn Dudovick and DNA has established his guilt. James Dudovick, father of Dawn Dudovick, expressed frustration over the blanket clemency issued by Ryan stating, "I think all the cases are being punished because of a few. If he [Ryan] had reviewed them each individually, he would see that some of the cases were done on the up and up." John Keilman, *Relatives of Victims Feel 'Cheated'*, CHI TRIB., Jan. 12, 2003, at A1, A15.

Dudovick shares the beliefs of those prosecutors who worked on the cases. Hoffman explains, "the facts of each of the cases differ so drastically from one another that the broad brush approach of blanket commutation is inappropriate."

The problems of the Illinois capital punishment system led Ryan to issue a moratorium on the death penalty in 2000. After

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implementing the moratorium, Ryan created a Capital Punishment Commission, which was intended to further examine the issues and problems with the system and propose possible reforms.

The problems in the Illinois system centered on the mistakes made and the failure to learn or change based on DNA exonerations, false confessions, and other errors in the system.

The Illinois Prisoner Review Board held clemency hearings in November of 2001, upon which they made non-binding confidential recommendations to the governor concerning each Death Row inmate.

There are questions surrounding Ryan's motivations as the blanket clemency occurred during his last few days as governor, a term which has been marred in scandal based on a federal corruption investigation of the Office of the Secretary of State when Ryan held that position.

Ryan's decision is likely to elicit a more intense national debate on capital punishment in the United States and its role in our legal system. The impact of Ryan's decision will likely not be understood for some time. A possible backlash against his decision could inhibit reform and further the system's use. Or conversely, it could lead to reform and a diminished use of the system.

The impact of the decision is viewed differently based upon one's views of the capital punishment system generally. "Those people who believe that this is going to be some clarion call for reform are sadly mistaken for all the same reasons that many thoughtful people urged Ryan not to grant clemency," said Joshua Marquis, an Oregon prosecutor and the chairman of the capital litigation committee of the National District Attorney's Association. Steve Mills and Maurice Possley, *Clemency Adds Fuel to Death Penalty Debate*, CHI TRIB., Jan. 13, 2003, at A1, A20.

However, Barry Scheck, co-founder of the Innocence Project at Cardozo Law School in New York believes that, "Once the smoke clears from the emotional reactions of victims' families and the less understandable pique of prosecutors...it is going to raise the level of

dialogue about capital punishment..." Steve Mills and Maurice Possley, *Clemency Adds Fuel to Death Penalty Debate*, CHI TRIB., Jan. 13, 2003, at A1, A20.

Ironically, the state of Oregon is one of the twelve states that do not have the death penalty, whereas New York is one of the 38 that do.

The state of Maryland under then-Governor Parris Glendening established a moratorium on executions in May of 2001, similar to the one established in Illinois under Ryan. A study conducted over more than two years revealed disparities in how capital punishment is

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applied based on geographic and racial differences in Maryland. Maryland's current governor, Robert Ehrlich, plans on resuming executions, while Attorney General Joseph Curran called for the abolishment of the state's death penalty system on January 30, 2002.

In Texas there are 13 inmates on Death Row who are scheduled to be executed by the end of February, including seven in a two-week stretch. Since the system was legalized again in the mid-1970s half of all executions have occurred in Texas and Virginia. A potential impact of Ryan's decision put forth by experts is that capital punishment will now be even more focused in these areas of the country in which the system is practiced regularly.

In fact, Ryan's decision will probably have little effect in those areas in which Death Row inmates are frequently put to death. The

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