

U.S . BREAKS NEW GROUND IN ZEAL TO PUNISH

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POWHATAN, Va. -- Despite the shackles that pin his wrists **to** his belly, Richard Tipton manages a graceful handshake. Then he sits: a charming drug dealer **in** an alarming orange jumpsuit, sentenced **to** death at age 23.

Unlike most men on Virginia's Death Row, Tipton is not supposed **to** die there. He is a guest from the United States government, one of the first federal inmates **to** face execution **in** more than 30 years.

When his time comes, Tipton said, word is he'll be taken halfway across the country **to** a place **in** Indiana that he called "Cherokee Hut." America's first federal death chamber is being built there. He hears a gas chamber, or maybe lethal injection, will be waiting.

"I can't say I'm afraid and I can't say I'm not," said Tipton, who was convicted as the leader of a brutal Richmond drug gang that killed 11 people during a 45-day murder spree **in** 1992. "I know I'm a guinea pig."

Indeed, Tipton's likely fate marks a sharp **break** with the past -- a reflection of public outrage over street crime. Across America, people no longer trust prisons and parole boards **to** offer safety or justice. A cry has gone up for retribution against criminals, and Washington is answering.

For the first time **in** three decades, the **U.S .** government is preparing **to** execute its citizens. Federal prosecutors have been seeking and winning the death sentences at an accelerating pace since 1990, after Congress authorized capital punishment for drug kingpins who commit murder.

Tipton is one of six men condemned **to** die under the law. Fourteen more are awaiting trial, including five alleged members of the Best Friends drug and murder-for-hire gang **in** Detroit.

Congress is also debating a crime bill that would extend the federal death penalty **to** dozens more crimes, including murder committed during a carjacking, murder committed during a drive-by shooting and virtually any murder with a gun involving drugs.

A particularly popular provision among some conservative members of Congress would authorize death for major drug traffickers accused of murdering no one at all.

The most tangible symbol of the get-tough crusade is **in** "Cherokee Hut" -- actually Terre Haute, Ind. -- where Federal Bureau of Prisons officials last week broke **ground** on the first national execution chamber **in** **U.S .** history.

There will be no cyanide gas, contrary **to** what Tipton has heard.

"We know it's going **to** be lethal injection, but the exact procedures down **to** who does what haven't been established," said Bill Gerth, executive assistant **to** the warden at the **U.S .** Penitentiary at Terre Haute. "We just broke **ground** because we just got nice weather here."

Across the yard from the future death house, workers are renovating a wing of the prison for a federal Death Row. Under current plans, Tipton and two buddies also sentenced **to** death could move **in** as early as this summer.

At first it would be the Richmond gang, a marijuana grower from Alabama, a Texas drug dealer and a foot soldier for an Oklahoma drug gang. Just those six, rattling around **in** a wing built for 50.

But it could soon get crowded.

"The pace of federal prosecutions is definitely picking up," said Richard Dieter, executive director of the Death Penalty Information Center **in** Washington. "The whole universe of cases is still pretty small, but that will change with the crime bill as it's now planned."

Paul Curtis, a Detroit attorney who represents one of the defendants **in** the Best Friends case, finds that frightening.

"We've got a society that is out of control, but now we're out of control," Curtis said. "We're seeking the death penalty as a knee-jerk reaction **to** systemic problems."

In the Best Friends case, three of the Detroit men -- Reginald (Rockin' Reggie) Brown, Lonnie O'Bryant and Michael Williams -- are scheduled **to** stand trial this fall before **U.S .** District Judge Avern Cohn. Neither of the two other alleged gang members has a court date: Stacey Culbert's whereabouts are unknown, and Charles Wilkes just recently was arrested.

Federal authorities aren't alone **in** their aggressive pursuit of the ultimate punishment. Use of the death penalty by state officials is increasing as well.

Recent rulings by the **U.S .** Supreme Court have speeded Death Row appeals and hastened the rate of executions **in** Texas, Florida, Virginia and other leading capital punishment states.

Last year, 38 Americans were executed, the highest number **in** more than 30 years. Texas killed 17 of them -- an average of one every 21 days.

The number of states conducting executions also is growing. Since 1991, Illinois, California, Washington and Idaho have carried out death sentences for the first time **in** decades.

In April, Maryland plans **to** conduct its first execution **in** 33 years. The condemned man, John Thanos, 44, fatally shot three teenagers **in** 1990 after he was mistakenly released from prison. If Thanos dies **in** the gas chamber, Maryland would become the 23rd state **to** execute a convict since 1976, when the Supreme Court lifted a ban on capital punishment.

And the number of states where capital punishment is legal may be growing: **In** Kansas, lawmakers spurred by the murder of a rural family are at work on a statute **to** allow juries **to** start sentencing people **to** death.

Kansas Gov. Joan Finney opposes capital punishment but has said she would allow the law **to** take effect. If it does, Kansas would become the 37th state **to** adopt the penalty since 1976.

The law would be too late **to** affect Paul Kiser, who recently was convicted of manslaughter **in** the deaths of his neighbors Tim and Deanna Peters and their children, Joshua, 6, and Angela, 4. All were shot last November except Angela, who was beaten; their house **in** Reno County was burned **to** the **ground** .

Kiser, who is awaiting sentencing, is expected **to** spend only a few years **in** prison.

"Now that's sick, isn't it?" said Bob Fairchild, Deanna's father and a Kansas farmer who has pushed lawmakers **to** adopt the death penalty.

"People are sick and tired of the system. Nothing is working right now," Fairchild said. "There is that element that is mean, and nothing can change them. So the death penalty is the answer."

A **new** attitude

Compared with the states, which hold more than 2,800 people on Death Row, the federal system is small potatoes. But the spurt of federal activity is striking: The **U.S.** government has executed no one since March 15, 1963.

In 1972, the Supreme Court effectively outlawed the death penalty by striking down laws **in** Texas and Georgia. **In** 1976, the court reconsidered, ruling that execution might be permitted under the constitution if statutes were rewritten **to** eliminate the "arbitrary and capricious" sentences produced by earlier laws.

Many states reacted immediately, but Congress declined **to** apply capital punishment **to** a broad range of federal crimes as it had **in** the past. Instead, it authorized the death penalty for air piracy and, a few years later, espionage. No one has been executed under either law since the court's decision.

Then, **in** 1988, Congress passed the drug kingpin law, authorizing the death penalty for a killing associated with a "continuing criminal enterprise," such as drug trafficking.

The law was used infrequently until 1992, a presidential election year, when the Bush administration found 14 cases **to** try, said David Bruck, a Columbia, S.C., lawyer who assists the defense **in** federal death penalty cases.

"There was a burst of activity, right around the **New** Hampshire primary," Bruck said. "Take it for what you will, but them's the facts."

Apparently, it was not just an election-year fluke. The pace of prosecution "has not slowed appreciably at all under Clinton," Bruck said. "That's one campaign promise he's kept."

Bruck and other death penalty opponents have attacked the Justice Department's record of handling the cases, saying federal prosecutors have targeted minorities almost exclusively.

Last month, a House panel chaired by Rep. Don Edwards, D-Calif., issued a report showing that of 37 cases **in** which the Justice Department sought the death penalty since 1988, 29 -- 78 percent -- had black defendants. Four more -- 11 percent -- had Hispanic defendants.

Since she took office, Attorney General Janet Reno has authorized seeking the death penalty **in** 10 cases. All the defendants are black.

'Going after . . . minnows'

Sam Gross, a law professor at the University of Michigan and author of a book about racial discrimination **in** capital prosecutions, called that record "unique **in** recent American history."

"It's striking enough that the Justice Department should be required **to** explain this," Gross said. "Because if they can't -- if they say it just happens that way -- I think **in** this situation that's not good enough."

The **new** death penalty provisions **in** the crime bill would only make matters worse, Bruck said.

"Instead of going after big fish, Congress is going after the tiny little minnows. And the more you look for small operators -- the 20-year-old, inner-city crack dealers -- the more likely it is you're going **to** be focusing on minority defendants," he said.

Reno has said she was unaware of the race of the defendants when she approved the cases. On Thursday, she said she is trying **to** "implement checks and balances **to** make sure that if you had two people similarly situated, they would be treated the same regardless of race."

Richard Tipton, who is black, does not believe that will ever happen.

"My lawyer told me this is just the idea of America, that minorities are expendable," he said.

MICHIGAN'S EXPERIENCE

Michigan has never had a death penalty. It instituted a constitutional ban when it achieved statehood Jan. 26, 1837, making it the first government **in** the English-speaking world **to** enact such a prohibition.

Fourteen executions have been conducted **in** Michigan, all but one of them before the territory became a state. The exception was of Anthony Chebatoris, who was hanged on July 8, 1938, at the Milan Federal Prison for shooting and killing a bystander during a bank holdup **in** Midland. Federal law required the execution be carried out **in** the state where the crime took place; Chebatoris was hanged despite Gov. Frank Murphy's vigorous protests **to** President Franklin D. Roosevelt.

Caption: Map KRT Photo Color DOUG PENSINGER/Knight Ridder Tribune

: Richard Tipton of Virginia expects **to** go **to** the **new** federal execution chamber **in** Indiana, the nation's first.

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