

# Politics play large role in state execution laws

**DEATH** from page 1

penalty."

Mowbray said polls show as much as 80 percent support for the death penalty in Nebraska, although support drops when people are asked if they would support life sentences instead.

Nationwide, executions have risen steadily since the Supreme Court's 1976 decision. One person was executed in 1981, 21 were executed in 1984 and 23 were executed in 1990. In 1997, 74 people were executed, and 68 were executed in 1998.

Despite the recent executions and strong support for the death penalty, policy-makers have proved willing to fine-tune capital punishment law to make the practice more fair and humane, said Carter Van Pelt, state coordinator for Nebraskans Against the Death Penalty.

For example, the 1998 Nebraska Legislature passed a law banning the execution of mentally retarded persons. Policy-makers and courts also have shown concern for preventing racial discrimination in sentencing and ensuring adequate legal representation, Van Pelt said.

"If you're talking about trends relative to the death penalty, even in the Legislature, people are generally pro-death penalty, but open to proposing changes around the pro-death penalty position," he said.

In this year's Legislature, Sen. Kermit Brashear of Omaha introduced a bill to change the method of execution from electrocution to lethal injection.

Nebraska is one of 10 states that use electrocution, and one of four whose exclusive means of execution is electrocution. Thirty-four states use lethal injection.

Lacey said more states have chosen lethal injection because people perceive it to be more humane.

Some recent electrocution deaths have been botched. For example, in some cases, the first jolt of electricity failed to kill the victim, causing several minutes of agony before another jolt could be administered. In other cases, the victim's clothes or body caught fire.

However, deaths by lethal injection have not always gone smoothly either. In some cases, executioners have spent more than 45 minutes probing for a suitable vein.

Mowbray said death penalty opponents are ambivalent about Brashear's bill, fearing that by making execution appear more humane, the state may also make it more acceptable to the public.

"It's a dilemma for opponents of the death penalty," he said. "There's no question electrocution is a violent way to die and is a very heinous method of punishment."

But if the process is sanitized, he said, "execution becomes just like a walk in the park."

Van Pelt said Nebraskans Against the Death Penalty is neutral on Brashear's bill.

In the Reeves case, another controversial issue was raised when the Nebraska Board of Pardons, on a 2-1 vote, refused to grant Reeves a hearing. The board then voted 3-0 to deny Reeves clemency.

Although a Board of Pardons hearing was standard practice for most of the state's history, it now has been denied to three consecutive death-row inmates.

Otey received a hearing, but Joubert, Williams and Reeves were denied. Mowbray said he was not aware of any death-row inmates before Joubert who were denied a Board of Pardons hearing.

Even Starkweather, the state's most notorious serial killer, was granted a hearing.

Gov. Mike Johanns, a member of the Board of Pardons, said the Board's purpose was not to serve as an appellate court. He said no new arguments were presented that should have compelled the board to grant a hearing.

Van Pelt said his organization was concerned about this trend. Traditionally, the Board of Pardons hearing represented a symbolic occasion that allowed the person sentenced to death to face those who would grant him clemency or make sure his execution was carried out.

In some cases, Mowbray said, a death-row inmate was granted clemency after such a hearing.

But Lacey said the board's function is essentially political rather than legal because it is placed in the executive branch, not the judicial branch.

After the Board of Pardon's denial of clemency, Lacey said Reeves' case had received due process.

"I think clemency is truly a political act, and it's up to the people who have that power to use it as they wish."

# Suit alleges Board denied Lamms' rights

HEARING from page 1

Hutchinson said the victims' bill of rights in Nebraska's constitution guarantees that families of victims have a chance for input at every step of the justice process.

But Assistant Attorney General Kurt Brown, who represented the state, argued that the Board of Pardons was not obligated to hear the Lamms.

"There is no legislation to enforce the victims' bill of rights," Brown said. "So this court lacks jurisdiction."

Reeves, 42, was sentenced to death 18 years ago for the 1980 deaths of Vicki Lamm and Janet Mesner.

The two women were killed at the Quaker meeting house in Lincoln where Mesner lived as a caretaker.

Reeves, an Omaha Indian adopted at the age of 3, grew up with Mesner in Central City.

With circumstantial evidence of sexual assault found at the scene, Reeves was convicted of two counts of felony murder.

Since the crimes, members of both the Mesner and Lamm families have been lobbying to have Reeves' sentence commuted to life in prison.

Some members of Vicki Lamm's family have supported execution, but others said Reeves' execution is not what Vicki would have wanted.

"It is critically important to the Lamms that the world knows who Vicki was," Hutchinson said.

There also is an appeal pending in the Nebraska Supreme Court. The appeal argues that, under Nebraska's newly adopted equal protection clause, Reeves was discriminated against when he was sentenced to death.

This equal protection claim was rejected by a Lancaster County

“We are asking the court to make the Pardons Board obey the law.”

PAULA HUTCHINSON  
Reeves' attorney

District Court judge last week.

The claim also alleges that the electric chair is cruel and unusual punishment.

The Supreme Court issued the stay and revoked Reeves' death warrant to consider this claim and the victims' rights suit.

"Substantively, I don't think either claim is valid," said Brown, the state's lawyer.

"The state doesn't go out and pick who is going to commit murder."

Brown said counting the minorities that are executed is an inappropriate way to measure discrimination.

But with the stay, Hutchinson said, the court will have time to consider the merits of both cases.

Though some may view the efforts of the Lamm and Mesner families as an attempt to excuse the crime, Hutchinson said they have been working to honor the memories of Vicki and Janet.

"Randy has never once for a moment forgotten what he did."

"But he knows his death won't bring these two beautiful women back."

"He always wanted them to be honored by who they were in life."

# Up to 40% Off New Textbooks



With inventory for the nation's largest colleges in one place — chances are we have your books in stock!

- Only \$4.95 shipping ... no matter how many books ordered
- Guaranteed 30-day, no-hassle return policy
- Fully secured transactions



**varsitybooks.com**

your online college bookstore