

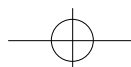
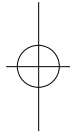
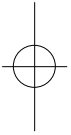


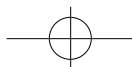
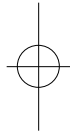
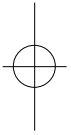
# **A Capital Case in America**

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**How Today's Justice System Handles  
Death Penalty Cases from Crime Scene  
to Ultimate Execution of Sentence**





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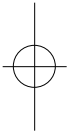
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**How Today's Justice System Handles  
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**David Crump  
and  
George Jacobs**

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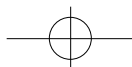


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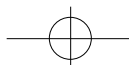
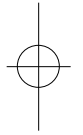
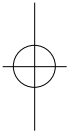
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## Foreword: Before the Execution

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The state has shaved the convict's head to provide a better electrical connection. It has stuffed cotton into his nose to stem the hemorrhaging that inevitably will occur. From another room, behind a one-way mirror, the executioner turns a switch, and the first 1800 volts pass through the condemned man's body. The shock is so powerful that it raises him from the chair like a puppet, in spite of the restraints that hold him down.

An instant later, the convict's heart stops. His blood heats to a temperature of more than two hundred degrees Fahrenheit. Within the confines of his brain, the blood literally, actually boils.

The killing force is decreased to 200 volts, then increased to 1200, then shut off; and the attending physician steps forward to examine the corpse. When he pronounces the convict dead, the body is taken out by another door. There is very little ceremony. The whole process lasts about five or six minutes.

That is what an execution is like.

Several states, such as Kentucky, Nebraska and Georgia, still use electrocution. In 1997 the Florida Supreme Court temporarily stayed all executions after bright blue flames shot out of the leather headpiece strapped on condemned killer Pedro Medina. It seemed likely that electrocution soon would be replaced.

Because of these disturbing spectacles, many states have changed their methods. From Colorado to New York, from Connecticut to Illinois, they have opted for lethal injections, which create less of an appearance of barbarity. Less horror. Less visible effects.

But even with the quieter, gurney-and-needle method, the death penalty remains an ugly prospect.

Why do we do it? Why, today, do we use a form of sentencing that so many people disagree with, that so many people have condemned, that so many people believe is brutal, totalitarian, discriminatory, unconstitutional and unfair?

That is what this book is about.

Today, capital punishment is a bigger issue than ever before. There are hundreds of condemned prisoners on Death Rows throughout the nation.

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The scene of the convict restrained in the electric chair or strapped to the gurney has ceased to be a mental image. It has become a reality.

And so the question today has taken on a new urgency: *Why do we use capital punishment?*

The answer, I think, is that the process of execution is only part of the capital punishment issue.

Behind every execution, there is another story: the story of the crime and the trial that happened *before* the execution. And that story is the “why” that lies behind capital punishment.

But let me take a minute to introduce myself before I go any farther.

My name is David Crump. I was an assistant district attorney in Houston, Texas, for almost four years. In other words, a prosecutor.

And on two occasions, it was my job to ask a jury to return a verdict of death.

When I got out of law school, I wasn’t exactly in favor of capital punishment. And I haven’t really changed my mind; I’m still not “in favor” of it. But to be perfectly honest, I had no difficulty in deciding to ask the jury for the death penalty in these two cases. The circumstances of the crimes left me no other choice.

These cases bore absolutely no resemblance to what you might see on a “Perry Mason” TV show. They were horrible murders. I thought death was the only sensible verdict to ask the jury to return, however much I may dislike the execution process.

The death penalty covers only a few kinds of murder. In my state, “capital murder”—the kind of murder that is subject to the death penalty—includes only the most brutal and inexcusable homicides. It includes murder by a prison escapee, murder by a hired killer, murder during rape or robbery—that sort of case. It is stranger-on-stranger murder, committed in cold blood, for the killer’s own gratification or gain.

In other states, the superficial details differ, but the principle is the same. California, for example, calls it “first degree” murder “with special circumstances.” Georgia uses a list of “aggravating” circumstances. But the special circumstances in California and the aggravating circumstances in Georgia include murder for hire, murder during rape or robbery, and multiple murders, just as in the cases I tried. In other words, capital murder in my state is similar to first degree murder with special circumstances in California or murder with aggravating factors in Georgia. The terminology varies, but the principle remains the same.

Only a small percentage of murders qualify for the death penalty. In fact, this is the point of these laws. A sailor who kills another sailor in a saloon does not qualify. Neither does a wife who deliberately murders her husband as a way of getting a “Smith-and-Wesson divorce.”

The death penalty is confined, by law, to only one or two percent of the worst, most horrifying, most blameworthy kinds of murders. As Texas prison spokesman Larry Fitzgerald puts it, “Everybody on death row has done something extraordinary to get there.”

For instance, one fellow I prosecuted had committed a whole series of execution-style robbery murders. He made one of his victims lie on the floor and then shot him in the back of the head. After he was arrested, he committed another murder by suffocating an inmate *inside* the county jail. And later, he told a roomful of television newsmen why he had done it: “for kicks.” He added that he enjoyed it, and he “guessed” that he would kill again if given the chance. His story is in this book.

It was a death penalty case. And that was the sentence I asked the jury to return.

You may disagree. And if so, that’s fine—because on an issue like the death penalty, everyone has an opinion that differs from everyone else’s. Besides, this isn’t just a book for death penalty supporters; it’s for opponents too. It always surprises me, but I’ve had people tell me that their opposition to capital punishment was strengthened, rather than weakened, by reading about the cases in this book.

It depends on how you interpret the facts you read about. But in any event, capital punishment—and the crimes that lead to it—are a fact we all need to know about, so we can make an intelligent decision about them.

The fact is, there are, on the average, half a dozen convicted capital murderers sentenced to death every year in my home town. At the same time, there are other convicted capital murderers who are spared and sentenced to life imprisonment instead.

This book is the story of some of those capital cases.

It is a story that plays out over several decades and still is ongoing. A capital case never ends with the jury’s verdict. There will be appeals, stays and petitions, usually in multiple loops, through both the state and federal courts, at the trial and appellate levels. Normally, there are repeated petitions to the Supreme Court. Also, an inmate can receive life in prison instead of death, and then, there is the possibility of parole in my state. Several other states, such as California, have created sentences of “life without possibility of parole,” producing prisoners who will be inmates forever—called “L-WOPPs,” for short.

The point is, stories about capital cases cannot be told without a book that spreads over more than two decades, as this one does.

When I decided to write this book, I was joined by my friend George Jacobs, who also was an assistant district attorney in Houston. We are both familiar with the capital murder cases that have been tried in Houston—too familiar, in fact. We lived with these cases day and night for

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years, because we prosecuted some of them on behalf of the people of Texas. We decided that the best way to tell what we know about capital punishment is simply to tell the stories of six cases in our city. The trials are randomly selected, in the sense that they all were held in one particular window of time. These cases could have happened anywhere—in New York, or Los Angeles, or Miami, or any of a thousand other American cities. They just happened to happen here.

“These kinds of murders aren’t unique to our state,” says Larry Fitzgerald, the Texas prison’s Public Information Officer. Because the state leads the nation in the number of executions, it attracts media attention, and Fitzgerald points out that it is unusually open to the media. The Texas Department of Criminal Justice provides reporters with access, interviews, and information that other states don’t. But Fitzgerald disagrees with the labeling of the state as the nation’s execution capital. Instead, he says, “this is the victim’s rights capital.” As he puts it, “Texans believe in the death penalty, and they act consistently with their beliefs.”

You will find evidence in this book to back up Larry Fitzgerald’s views. You also will find evidence to support the arguments of death penalty opponents. And unfortunately, no matter where you live, you will see that these crimes are at issue everywhere in America.

I’m not going to equivocate. I personally have made the decision, on balance, that I support the death penalty. But I’m not so confident as to think I have all the answers, and the final decision is up to you, not me.

And so our purpose in telling you about these cases isn’t just to entertain you. We want you, the reader, to confront these capital cases in the same way we had to, and to decide what ought to be done about them. Is the death of each of these men justified by his alleged crime?

Or, to look at it another way, can justice be done without capital punishment?

—David Crump