Copyright American Psychological Association

Introduction

Hans Toch, James R. Acker,
and Vincent Martin Bonventre

Death row. This bleak sobriquet evokes correspondingly foreboding imagery: adjoining cells made of bars of cold steel, ensconced deep within prison walls, inhabited by an assemblage of doomed offenders who mark the relentless passage of time that alone separates them from death by execution. As of April 1, 2017, there were 2,843 prisoners under sentence of death in the United States. The 2,790 men and 53 women awaited execution in 32 states and pursuant to U.S. Military and federal authority. Racially and ethnically diverse (42% White, non-Hispanic; 42% Black; 13% Hispanic; 3% of another race), the condemned are unevenly distributed throughout the country's death penalty jurisdictions. California houses more than one-quarter of the nation's death-sentenced prisoners (744), followed in size by Florida (386), Texas (247), and Alabama (193). In contrast, three or fewer inmates await execution in six states, including New Hampshire and Wyoming, which each house a single condemned prisoner (NAACP Legal Defense and Educational Fund, Inc., 2017).

http://dx.doi.org/10.1037/0000084-001
Living on Death Row: The Psychology of Waiting to Die, H. Toch, J. R. Acker, and V. M. Bonventre (Editors)
Copyright © 2018 by the American Psychological Association. All rights reserved.

Copyright American Psychological Association

The United States Supreme Court's ruling in *Furman v. Georgia* emptied the country's death rows in 1972 when five justices concluded that the capital sentencing laws then in effect could not be squared with the Eighth Amendment's prohibition against cruel and unusual punishments. New death sentences began accumulating the following year, as capital murder prosecutions resumed under revised death penalty laws that would later meet with the Court's approval (*Gregg v. Georgia*, 1976; *Jurek v. Texas*, 1976; *Proffitt v. Florida*, 1976). In the ensuing 4 decades, 8,466 persons were sentenced to death, yet only a minority (16.1%) within that time span had been executed. More than one third (37.7%) had their murder conviction or death sentence vacated between 1973 and 2013, including more than 150 (1.8%) who were exonerated. Nearly 5% saw their capital sentence commuted to a lesser punishment, whereas 6% died of natural causes. The rest remained under sentence of death (Death Penalty Information Center, 2017b; Snell, 2014; Williams & Murry, 2016).

Nearly half the inmates currently awaiting execution have been confined for at least 15 years, including more than 200 who have been incarcerated for more than 3 decades. The 20 prisoners executed in 2016 remained under sentence of death an average of 18½ years, including two from Georgia who were incarcerated for 34 and 36 years before dying by lethal injection (Christopher, 2016, p. 855; Death Penalty Information Center, 2017a; *Glossip v. Gross*, 2015, pp. 2764–2765, Breyer, J., dissenting; Snell, 2014). The prisoners who endure such prolonged incarceration in anticipation of execution routinely do so under conditions of extreme privation. In almost all jurisdictions, death-sentenced inmates are subjected to highly restrictive regimes of isolation, minimal out-of-cell time, and exclusion from programming and other amenities available to most other inmates (American Civil Liberties Union, 2013; Arthur Liman Public Interest Program, Yale Law School, 2016; Human Rights Clinic, University of Texas School of Law, 2017; Robles, 2017). Although death-sentenced inmates, with a few notable exceptions, are routinely required to subsist for years under conditions more severely restrictive than the normal incidents of incarceration, they do so in all but a handful of jurisdictions because of internal prison regulations rather than by legislative or judicial command (McLeod, 2016).

Copyright American Psychological Association

Putting to one side the issue of their legality, it is fair to question the necessity, wisdom, and also the fundamental decency of perpetuating the traditional attributes of death row confinement. These premises explain the impetus for this volume. In the chapters that follow, the book's contributors offer distinctive and overlapping perspectives about issues of psychology, law, corrections policy, and essential human dignity implicated in connection with rationales for death row confinement and the consequences of experiencing life under sentence of death.

HISTORY AND LEGALITY OF DEATH ROW IN THE UNITED STATES

Although marking the days until a date with the executioner would be debilitating for most people under any circumstances, both the duration and conditions of contemporary death row confinement raise issues of a different order of magnitude than prevailed earlier in this country's history. Capital punishment was practiced throughout colonial America and in all of the original states, but neither death rows nor extended preexecution delays were a feature of early death penalty regimes. Neither the facilities nor the need for the congregate confinement of condemned offenders existed at the time of the nation's founding.

The first state prisons were constructed in the 1790s, but prisons did not proliferate in the United States until after the turn of the 19th century (Rothman, 1971, pp. 60–61). Offenders, including those sentenced to death, were necessarily housed in county jails. Hangings occurred in the county where the offense was committed, in town squares, or another public venue, commonly attracting large and raucous audiences (Bannon, 2002, pp. 144–168; Linders, 2002; Masur, 1989). Executions gradually receded from public view, yet the states did not begin conducting executions centrally until after the close of the Civil War. Executions continued to be carried out locally in parts of the country, sometimes publicly, well into the 20th century (Bannon, 2002, p. 143; Bedau, 1982, pp. 12–13; Bowers, 1984, pp. 13–14). With capital offenders thus originally confined in county jails and executed in local venues, death rows simply were not needed to house the condemned.

Copyright American Psychological Association

Protracted confinement under sentence of death was similarly unheard of historically. During colonial times, executions might follow as soon as 2 to 4 days after sentencing (Aarons, 1998; Mackey, 1982). In keeping with common law tradition (Foucault, 1977; Gatrell, 1994), enough delay was typically indulged to afford offenders an opportunity to acknowledge their transgressions and offer public penitence (Bannon, 2002; Masur, 1989). Appeals were unavailable or were resolved expeditiously by courts throughout early statehood, including in capital cases. Executions thus generally occurred within a year of sentencing into the early 20th century. The average delay between the imposition of a death sentence and execution grew to approximately three years between 1930 and the mid-1960s (Aarons, 1998). The country's last pre-*Furman* execution occurred in 1967. Luis Jose Monge had remained under sentence of death for roughly 3½ years before dying in Colorado's gas chamber (Bowers, 1984; *Monge v. People*, 1965).

The U.S. Supreme Court's rulings in the wake of *Furman*, in *Gregg v. Georgia* (1976) and companion cases, spawned a vastly more demanding jurisprudence that was designed to harness capital sentencing discretion while still allowing consideration of relevant individual case circumstances. The new era ushered in a mandate for heightened reliability and corresponding layers of judicial review in death penalty cases. The rounds of appeals detected numerous serious errors. Roughly two thirds of capital convictions or sentences imposed between 1973 and 1995 were vacated by later court action (Liebman, Fagan, & West, 2000). The time required for the multiple levels of judicial scrutiny resulted in ever-increasing delays in cases that ended in execution. Inmates executed in 1984 spent just over 6 years under sentence of death. By 2004, the average gap between sentence and execution nearly doubled, to 11 years (Christopher, 2016; Death Penalty Information Center, 2017a; Snell, 2014). As noted earlier, significantly longer delays, now often measured in decades, are currently the norm.

The Supreme Court first expressed concerns about exposing prisoners awaiting execution to solitary confinement well over a century ago, in *In re Medley* (1890), a case in which a Colorado prisoner challenged (on ex post facto grounds) his being consigned to an isolation cell for 4 weeks before his scheduled hanging. Ruling in the prisoner's favor, the justices deemed the month-long stay in solitary confinement "an additional punishment

Copyright American Psychological Association

of the most important and painful character" (*In re Medley*, 1890, p. 171). More recently, various Supreme Court justices have registered their views that prolonged death row confinement can support a claimed violation of the Eighth Amendment's cruel and unusual punishments clause.

Justice Brennan's concurring opinion in *Furman v. Georgia* (1972) noted that "the prospect of pending execution exacts a frightful toll during the inevitable long wait between the imposition of sentence and the actual infliction of death" (p. 288). As increasingly lengthy delays between death sentences and executions became normative in the post-*Furman* era, Justice Stevens began urging the Court to take up the question of whether executing a prisoner who has already spent years of confinement on death row violates the Eighth Amendment (*Lackey v. Texas*, 1995, dissenting from denial of certiorari). He persisted in insisting that such "*Lackey* claims" (Newton, 2012) merited the Court's attention in later cases (e.g., *Gomez v. Fierro*, 1996; *Johnson v. Bredesen*, 2009; *Thompson v. McNeil*, 2009). Justice Stevens's position came to be echoed by Justice Breyer (e.g., *Glossip v. Gross*, 2015, dissenting; *Knight v. Florida*, 1999; *Ruiz v. Texas*, 2017). The full Supreme Court nevertheless has declined to address the issue (see Sharkey, 2013), although condemned prisoners continue to urge the justices to consider it (e.g., Petition for a Writ of Certiorari, *Moore v. Texas*, 2015). Justice Kennedy recently weighed in on the issue in *Davis v. Ayala* (2015, pp. 2208–2209, concurring):

> Since being sentenced to death in 1989, Ayala has served the great majority of his more than 25 years in custody in . . . solitary confinement. . . . It is likely [he] has been held . . . in a windowless cell no larger than a typical parking spot for 23 hours a day. . . . One hundred and twenty-five years ago, this Court recognized that, even for prisoners sentenced to death, solitary confinement bears "a further terror and peculiar mark of infamy," *In re Medley*, 134 U.S. 160, 170 (1890). . . . Too often, discussion in the legal academy and among practitioners and policymakers concentrates simply on the adjudication of guilt or innocence. Too easily ignored is the question of what comes next.

Lower court rulings involving death rows in Louisiana (*Ball v. LeBlanc*, 2015) and Mississippi (*Gates v. Cook*, 2004) have declared that specific

Copyright American Psychological Association

aspects of prisoners' confinement, including exposure to excessive heat, lack of sanitation, inadequate mental health care, and inadequate lighting, subjected the incarcerated to cruel and unusual punishment. The Fourth Circuit Court of Appeals recently revived a challenge to the conditions of confinement on Virginia's death row, rejecting the district court's conclusion that the case had become moot after prison officials altered several preexisting policies (*Porter v. Clarke*, 2017). Courts have rejected broad-based challenges to death row conditions in other states (e.g., *Chandler v. Crosby*, 2004 [Florida]; *Peterkin v. Jeffes*, 1988 [Pennsylvania]), and many have ruled that prolonged stays on death row in combination with the restrictive conditions of confinement do not violate prisoners' Eighth Amendment rights (e.g., *Allen v. Ornoski*, 2006; *Johns v. Bowersox*, 2000; *Moore v. State*, 2002; *Pardo v. State*, 2012; *State v. Moore*, 1999; *State v. Schackart*, 1997; *Thompson v. Secretary Dept. Corrections*, 2008).

In contrast, prisoners awaiting execution in other countries have gained judicial recognition that lengthy incarceration under sentence of death is inhumane and denies fundamental human rights (Brief of International Law and Human Rights Institutes, Societies, Practitioners and Scholars, *Moore v. Texas*, 2016; Christopher, 2015, pp. 23–28; *Knight v. Florida*, 1999, pp. 462–463, Breyer, J., dissenting from denial of certiorari; Sadoff, 2008; Tongue, 2015). And while invalidating early death penalty laws pursuant to their respective state constitutions, the Supreme Court of California (*People v. Anderson*, 1972) and members of the Massachusetts Supreme Judicial Court (*Suffolk County District Attorney v. Watson*, 1980, p. 1287, Braucher, J., concurring; pp. 1289–1295, Liacos, J., concurring) recognized prolonged death row confinement as contributing to the cruelty of capital punishment.

SURVIVING ON DEATH ROW

Living conditions on death row have tended to be purposefully inhospitable on the basis of the presumption that those who end up subjected to these custodial settings are not only the most serious possible offenders but are also extra-tough and predatory individuals who pose a continuing danger to others. As we shall be able to show, this widely advertised

Copyright American Psychological Association

concern about the danger posed by death row prisoners is unsupported by evidence. However, the evidence does show us that a disproportionate number of terminally confined individuals experience serious mental health problems, and that their disabilities are predictably aggravated by the onerous conditions of confinement to which we have subjected them. In other words, we have gone on to respond to those we deem the worst of the worst by transmuting them into the worst-off.

Though dead men tell no tales, those who believe they are about to die or have spent years threatened with death and been narrowly reprieved can not only tell us a great deal about their experience but, if they are given the opportunity, can also eloquently write about it. This capability not only provides us with an invaluable source of vivid and persuasive information but also introduces us to exciting new options for collaborative inquiry.

As a side benefit, participation in such a retrospect is obviously helpful to a prisoner who is faced with the task of digesting his traumatic experiences in the course of recovering from them. This particularly mattered for contributors to our book who had spent years on death row proclaiming their innocence before they were finally exonerated and could begin to envisage the possibility of escaping from confinement. These were persons who had to endure the deprivations of their marginal existence on death row with the added pain and bitterness of knowing themselves unjustly sequestered, with minuscule hopes of redress.

And yet these are among the favored few among the denizens of death row, not only because they had been able to consistently conceive of the possibility of being released but also because they had somehow acquired or retained a group of supporters in the outside world who had reinforced and supported their beliefs. On the other extreme of the death row spectrum are the prisoners described in Chapter 6 who have testified to their lack of resources, hopelessness, and despair by "volunteering" for execution.

We are learning, however, that inhospitable conditions that demonstrably do a great deal of harm also occasionally offer surprising opportunities by providing challenges that the more resilient among death row prisoners have tackled and very often met, thus displaying surprising skill and resourcefulness and demonstrating an impressive capacity to adapt to adverse circumstances. We shall see, by reviewing daily routines that

Copyright American Psychological Association

are painfully eked out on death row, evidence of the ingenuity that has to be continuously exercised on death row in evolving the approaches and strategies that enable some of the prisoners to survive an existence of incredible boredom and hopelessness.

There are reputedly gradations in hell. Prisons may be the secular equivalent, and they also offer gradations. The standard classification process deployed in every prison sorts inmates into categories that are based on the danger the prisoners are presumed to pose, and these categories determine the prisoners' placement under custodial regimens of varying severity and degrees of onerousness of living conditions. As the prisoners continue to serve their sentence, they (and presumably, the denizens of hell) then become eligible for gradual reclassification and consequent promotion to settings that are increasingly less depriving.

Death row prisoners fall at the bottom end of these prison classification schemes and always stay there, no matter how long the prisoners remain on death row. Careers on death row are consequently invariably endlessly static and hope depriving. The physical death row settings have also remained static over time, and they have continued to replicate an outdated medieval modality of prison design that has heartlessly imposed unmitigated solitary confinement.

It has become increasingly obvious that this situation has been inimical to psychological survival, and this realization has been the impetus for incipient reform. Newly ameliorated death rows are thus beginning to offer a few requisites and conditions for long-term existence and coexistence, such as means and opportunities to communicate among the prisoners.[1] As these modest changes have unfolded, it has become obvious that they have not only redounded to the benefit of the prisoners but have also appreciably improved the quality of life for the staff who work with them. Moreover, none of the risks or dangers of presumptive initial concern in the classification of death row prisoners have been observed, nor have any safety or security concerns arisen for death row prisoners who are increasingly being released into the general prison population.

[1] For example, death-sentenced prisoners in North Carolina have formed competitive basketball teams and play games against one another within Central Prison (May, 2017).

Copyright American Psychological Association

As prisoners spend increasing amounts of time on death rows awaiting executions that do not eventuate—or that eventuate much less frequently—we must face the reality that death rows have become transmuted into indefinite long-term storage depots. The prisoners who live in such enclaves are bound to sense that they have been relegated to serving life sentences without the possibility of parole but that they must continue to be stigmatized by the system as capital offenders. They will know they have to continue living with the ambiguity and uncertainty of their precarious situation.

The increasing number of prisoners whose sentences are bound to be vacated or commuted will concurrently have to work through the more or less nominal change of status to ex-capital offender and death row alumnus. There will be some challenges in this transition not only for the prisoners themselves but also for fellow prisoners, staff, administrators, and the public.

OVERVIEW OF THE BOOK

By dint of their remarkably diverse experiences and qualifications, the contributors to this volume are exceptionally well positioned to provide insights into the multiple and layered dimensions of death row confinement. The chapter authors include the former warden of San Quentin Prison, home to the nation's largest complement of death-sentenced prisoners; psychiatrists and psychologists, some of whom have evaluated inmates who have endured years of death row confinement and others who have systematically studied how such long-term confinement affects the incarcerated; social scientists whose research sheds light on assumptions made about the dangerousness of prisoners under sentence of death and the related issues of institutional security and the safety of correctional staff charged with their supervision; legal scholars who address constitutional questions associated with extended death row confinement; and individuals who experienced imprisonment for years in anticipation of execution and offer their unique perspectives about subsistence under a sentence of death and its consequences.

Copyright American Psychological Association

Multiple audiences will find something of value in the varied chapter offerings. Mental health professionals will gain greater familiarity with the conditions confronting prisoners under sentence of death. They may consider working in a clinical capacity with individuals so confined, helping with the risk assessment and classification of death-sentenced offenders where used, evaluating the effects of institutional policies on death-sentenced inmates' mental health, and conducting related research. Corrections officials will learn more about research that has focused on the institutional behavior of prisoners under sentence of death; the profound psychological consequences of prolonged confinement on death row; and the different strategies available for housing death-sentenced prisoners, including their possible benefits and drawbacks. They will also gain a fuller understanding of governing legal doctrine. Members of the legal community—lawyers and judges—and policy advocates will benefit from the insights provided by mental health professionals, corrections personnel, and other chapter authors, particularly with respect to matters important to the enforcement of constitutional norms and correctional management. And any reader who has not visited a death row, let alone experienced confinement under sentence of death, will gain a much deeper appreciation of what life on death row entails, especially through those chapters whose authors have existed under those conditions.

The first three chapters of this volume (Part I) provide an introductory survey of the physical environment and the political and legal landscape of death row, as well as of the treatment of death row inmates. In Chapter 1, Jeanne Woodford addresses the lengthy delays in carrying out executions of death-sentenced inmates. Having served as the warden and head of a prison system, her observations are particularly compelling. As she notes, the law has evolved to generate issues on the demands of due process and the restrictions on cruelty. And yet, this very allowance of increasingly varied appeals and collateral challenges means increased time on death row, sometimes extending through decades.

In Chapter 2, Terry A. Kupers provides damning insight on life in solitary confinement. Kupers, an experienced psychiatrist, describes the "incredibly cruel punishment" to which death-sentenced inmates are condemned in supermaximum security units. Having toured numerous isolative

Copyright American Psychological Association

confinement units over the years, Kupers recounts the pain, despair, physical and mental trauma, and the pathological behaviors he has witnessed. Ultimately, he questions any penological purpose as well as the basic morality of such "immense and unnecessary suffering."

In the third and final chapter of Part I, Robert Johnson and Gabe Whitbread review the literature on life on death row and the effects on the lives of the inmates. The authors identify recurring themes in the descriptions of death row existence: dreadful conditions, abusive treatment, lack of basic medical services, mental and emotional deterioration, and deprivation of adequate physical activity or even minimal sensory stimulation—in short, "living death."

Part II explores constitutional questions that arise in challenges to death row and to the treatment of death-sentenced inmates, as well as the legitimacy and wisdom of the policies that segregate those inmates from others and subject them to long-term solitary confinement. In Chapter 4, Fred Cohen provides a veritable primer on the constitutional case law having a bearing on the extended isolation of death row inmates, and he outlines the basics of a legal blueprint for further advances in the amelioration of the cruelty those inmates are made to endure. As Cohen explains, although the federal constitution explicitly prohibits "cruel and unusual punishments," current Supreme Court interpretation distinguishes cruel conditions from the prohibited "punishment" or sentence itself. Moreover, despite the Court's repeated incorporation of "evolving standards of decency" into its death penalty jurisprudence, it has nevertheless been hesitant to prohibit any form of punishment other than that which involves the deliberate infliction of entirely gratuitous and wanton pain.

Chapter 5 examines and challenges the traditional justifications proffered for the isolated confinement of death-sentenced inmates. Mark D. Cunningham, Thomas J. Reidy, and Jonathan R. Sorensen identify the various rationales customarily asserted for the segregated, extremely restrictive conditions that characterize death row in most American jurisdictions. Inmates condemned to execution, the arguments go, are especially violent, desperate, more likely to attempt escape, and much less responsive to conduct-corrective measures. A critical flaw with such claims, the authors assert, is that the restrictive and isolating conditions of death row solitary

Copyright American Psychological Association

confinement actually produce the psychological distress and disorders that lead to or aggravate the feared behavioral dysfunctions.

In Chapter 6, Meredith Martin Rountree examines the phenomenon of death-sentenced inmates choosing to abandon legal recourses and proceed to execution. Approximately one in 10 executions in this country involve inmates who had decided against contesting their convictions or sentences. Among the questions the author probes is whether mental illness, hopelessness, and psychological deterioration—effectuated either by an inmate's adverse life experiences, the conditions and treatment on death row, or a combination of these and other factors—actually belie any truly knowing, voluntary, and intelligent decision by the inmate to relinquish legal rights and surrender to execution.

The chapters in Part III address the question, How can a person who has been locked away for extended periods of time under the most adverse possible conditions go about mitigating the pain, ameliorating the stress, and transcending the limited opportunity structure of his stultifying environment? The conventional way of dealing with this question is to refuse to ask it. Ian O'Donnell, the prominent Irish criminologist, thus points out in Chapter 7 that by limiting attention, as we habitually do, to "destructive consequences," readers are invited to "ignore the heroic efforts that some of the most marginalized among us have made . . . to bear potentially unbearable circumstances" (p. 194). The "heroic efforts" that O'Donnell alludes to are subsumed by the authors of Chapters 7 to 9 under the rubric of "doing time," which is the enterprise in which we assume all prisoners to be engaging. In his chapter, O'Donnell describes the difficulty facing the prisoners over time by recalling the relationship between experienced events and memory delineated by the pioneering psychologist William James (1961)—a phenomenon O'Donnell calls *time's paradox*. James had pointed out that a period in which nothing noteworthy occurs tends to come across as lasting a long time but that the same period will appear in retrospect to have been fleeting and insignificant. O'Donnell notes that this situation does not redound to the benefit of prisoners—particularly, prisoners sequestered in death rows. He describes courses of action that serve to facilitate the doing of time, such as the inmate associating himself with a meaningful cause or keeping himself constructively

Copyright American Psychological Association

occupied and retaining his focus on the present, as opposed to a past that he cannot change and a future that features the uninviting prospect of his eventual execution.

Prison systems have traditionally exercised considerable ingenuity in setting up situations that were designed to obstruct the few coping strategies that had remained available to the most resilient and enterprising prisoners. By far the most popular of these vehicles for interfering with psychological survival among inmates has been to increase their isolation. In Chapter 8, Bruce Jackson and Diane Christian provide heartrending testimonials to the success of this approach, as exercised in the Texas state prison system. Jackson and Christian document how the closing off of modest avenues of psychological survival can appreciably impair mental health among the relocated prisoners, driving several over the brink.

Chapter 9 is based on an analysis of correspondence with a long-term inmate (Jonathan Reed) who lived under both "old" and "new" versions of death row in the Texas system and who managed to survive both of them during decades of confinement. In letters to his sponsors, the inmate (Jon) provides many particulars designed to document his observation that even under the most restrictive conditions, dedicated and motivated prisoners find ways of circumventing an onerous prison regime by communicating with each other and by eking out some semblance of a marginal existence. In a personal vein, Jon describes his approach to prison adjustment with a focus on living in the immediate present, highlighting the emphasis on a superordinate goal, which in his case includes work on his appeals and a continued claim to his innocence. The authors of Chapter 9 conclude by asserting that their study exemplifies a collaborative approach to doing prison research, which in the case of their research yielded "powerful lessons in Jon's life for understanding human adaptations to extreme situations of routine trauma, loss, and isolation" (p. 251).

The chapters in Part IV feature the perspectives of individuals who spent years in prison under sentence of death before justice system officials acknowledged their wrongful conviction for capital murder and released them from custody to reenter free society. They are survivors in the sense that they escaped death row without being executed. However, they did not escape without suffering. We get glimpses from these

Copyright American Psychological Association

chapters into what life is like under sentence of death and how individuals who have spent time on death row continue to be affected by what they have experienced. In Chapter 10, Joe D'Ambrosio in collaboration with Rev. Neil Kookoothe, his friend and a Catholic priest (as well as an attorney and licensed nurse), provide a vividly moving account of the dehumanizing privations that characterized his 22 years of incarceration on Ohio's death row. He describes the indignities, isolation, and fractured external relationships that not only marked those years but also robbed him of countless irreplaceable life experiences and opportunities and left scars that remain 5 years after his exoneration and release from prison. Still, D'Ambrosio disavows bitterness. He demonstrates a defiant resilience and a determination to reclaim and live a fulfilling life rather than lose more of it to the oppressive weight of his years spent on death row.

The title of Charles S. Lanier's Chapter 11, "'Dreaming That I'm Swimming in the Beautiful Caribbean Sea': One Man's Story on Surviving Death Row," is drawn from Lanier's extensive interview with Juan Meléndez-Colón, who was wrongfully convicted of murder in Florida and spent "17 years, 8 months, and 1 day" on that state's death row before being exonerated and released from prison in 2002. Meléndez-Colón's dream while under sentence of death evoked memories of his childhood in Puerto Rico and served as an important lifeline to the world beyond the bars of Florida's Raiford Prison, where he contemplated suicide, was taken under the wing and taught English by fellow death row inmates—several of whom died in the electric chair during his stay there, and where he witnessed acts of both extraordinary cruelty and compassion. The transcribed conversation between Lanier and Meléndez-Colón captures the latter's reflections, more than 14 years after regaining his freedom, about his life on death row and the adaptations he made from his arrival through his release. This rich account is contextualized by Lanier's interspersed descriptions of broader legal and policy issues surrounding death row confinement.

In Chapter 12, sociologists Saundra D. Westervelt and Kimberly J. Cook report lessons learned about the lingering effects of confinement under sentence of death from their lengthy life-history interviews with 17 men and one woman who were wrongfully convicted of murder and

Copyright American Psychological Association

who spent an average of 5 years (and as long as 17.5 years) on death row in 10 different states before being exonerated. Although they eventually gained their freedom, these former prisoners did not leave death row unscathed. Relying largely on the voices of the interviewees, this chapter exposes the enduring physical, emotional, and psychological trauma caused by their confinement. The exonerees discuss confronting additional postrelease difficulties, including unjust stigmatization, a lack of monetary resources and assistance in finding housing or jobs, problems coping with technological and other societal changes, and many others.

The book concludes with an appendix that contains a report by the Yale Law School's Arthur Liman Public Interest Program, recently renamed The Arthur Liman Center for Public Interest Law. The report identifies the statutes, rules, and several interpretive judicial decisions that govern the incarceration of death-sentenced prisoners nationwide, provides an overview of related social science research, and describes and gives more detailed consideration to the programs adopted in North Carolina, Missouri, and Colorado, which are presented as alternatives to the traditional death row model for housing condemned prisoners. The report thus integrates a host of issues broached in this volume's chapters and offers a wealth of topics for further contemplation and action.

REFERENCES

Aarons, D. (1998). Can inordinate delay between a death sentence and execution constitute cruel and unusual punishment? *Seton Hall Law Review*, *29*, 147–212.

Allen v. Ornoski, 435 F.3d 946 (9th Cir.), *cert. denied*, 546 U.S. 1136 (2006).

American Civil Liberties Union. (2013). *A death before dying: Solitary confinement on death row*. Retrieved from https://www.aclu.org/files/assets/deathbeforedying-report.pdf

Arthur Liman Public Interest Program Yale Law School. (2016). *Rethinking death row: Variations in the housing of individuals sentenced to death*. Retrieved from https://www.law.yale.edu/system/files/documents/pdf/Liman/deathrow_reportfinal.pdf

Ball v. LeBlanc, 792 F.3d 584 (5th Cir. 2015).

Bannon, S. (2002). *The death penalty: An American history*. Cambridge, MA: Harvard University Press.

Copyright American Psychological Association

Bedau, H. A. (1982). *The death penalty in America* (3rd ed.). New York, NY: Oxford University Press.

Bowers, W. J. (1984). *Legal homicide: Death as punishment in America, 1864–1982*. Boston, MA: Northeastern University Press.

Brief of International Law and Human Rights Institutes, Societies, Practitioners and Scholars, *Moore v. Texas*, 2016 WL 324311.

Chandler v. Crosby, 379 F.3d 1278 (11th Cir. 2004).

Christopher, R. L. (2015). The irrelevance of prisoner fault for excessively delayed executions. *Washington and Lee Law Review*, *72*, 3–74.

Christopher, R. L. (2016). Absurdity and excessively delayed executions. *U.C. Davis Law Review*, *49*, 843–898.

Davis v. Ayala, 135 S.Ct. 2187 (2015).

Death Penalty Information Center. (2017a). *Execution list 2016*. Retrieved from http://www.deathpenaltyinfo.org/execution-list-2016

Death Penalty Information Center. (2017b). *Innocence and the death penalty*. Retrieved from http://www.deathpenaltyinfo.org/innocence-and-death-penalty

Foucault, M. (1977). *Discipline and punish: The birth of the prison* (A. Sheridan, Trans.). New York, NY: Pantheon Books.

Furman v. Georgia, 408 U.S. 238 (1972).

Gates v. Cook, 376 F.3d 323 (5th Cir. 2004).

Gatrell, V. A. C. (1994). *The hanging tree: Execution and the English people 1770–1868*. New York, NY: Oxford University Press.

Glossip v. Gross, 135 S.Ct. 2726 (2015).

Gomez v. Fierro, 519 U.S. 918 (1996).

Gregg v. Georgia, 428 U.S. 153 (1976).

Human Rights Clinic, University of Texas School of Law. (2017). *Designed to break you: Human rights violations on Texas' death row*. Retrieved from https://law.utexas.edu/wp-content/uploads/sites/11/2017/04/2017-HRC-DesignedToBreakYou-Report.pdf

In re Medley, 134 U.S. 160 (1890).

James, W. (1961). *Psychology: The briefer course*. New York, NY: Harper & Row.

Johns v. Bowersox, 203 F.3d 538 (8th Cir.), *cert. denied*, 531 U.S. 1038 (2000).

Johnson v. Bredesen, 558 U.S. 1067 (2009).

Jurek v. Texas, 428 U.S. 262 (1976).

Knight v. Florida, 528 U.S. 990 (1999).

Lackey v. Texas, 514 U.S. 1045 (1995).

Liebman, J. S., Fagan, J., & West, V. (2000). *A broken system: Error rates in capital cases, 1973–1995*. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=232712

Copyright American Psychological Association

Linders, A. (2002). The execution spectacle and state legitimacy: The changing nature of the American execution audience, 1833–1937. *Law & Society Review*, *36*, 607–648. http://dx.doi.org/10.2307/1512164

Mackey, P. E. (1982). *Hanging in the balance: The anti-capital punishment movement in New York State, 1776–1861*. New York, NY: Garland.

Masur, L. P. (1989). *Rites of execution: Capital punishment and the transformation of American culture, 1778–1865*. New York, NY: Oxford University Press.

May, L. (2017). *The death row basketball league: Always playing against the clock*. Retrieved from https://www.themarshallproject.org/2017/03/16/the-death-row-basketball-league#.qI5O8WjAJ

McLeod, M. S. (2016). Does the death penalty require death row? The harm of legislative silence. *Ohio State Law Journal*, *79*, 525–592.

Monge v. People, 406 P.2d 674 (Colo. 1965).

Moore v. State, 771 N.E.2d 46 (Ind. 2002).

NAACP Legal Defense and Educational Fund, Inc. (2017). *Death row U.S.A.: Spring 2017*. Retrieved from http://www.naacpldf.org/files/about-us/DRUSASpring2017.pdf

Newton, B. E. (2012). The slow wheels of *Furman's* machinery of death. *The Journal of Appellate Practice and Process*, *13*, 41–73.

Pardo v. State, 108 So.3d 558 (Fla. 2012).

People v. Anderson, 493 P.2d 880 (Cal. 1972).

Peterkin v. Jeffes, 853 F.2d 1021 (3d Cir. 1988).

Petition for a Writ of Certiorari, *Moore v. Texas*, 2015 WL 9252271 (2015).

Porter v. Clarke, 852 F.3d 358 (4th Cir. 2017).

Proffitt v. Florida, 428 U.S. 242 (1976).

Robles, G. (2017). *Condemned to death—and solitary confinement*. Retrieved from https://www.themarshallproject.org/2017/07/23/condemned-to-death-and-solitary-confinement#.td5PfDzKF

Rothman, D. J. (1971). *The discovery of the asylum: Social order and disorder in the new republic*. Boston, MA: Little, Brown & Company.

Ruiz v. Texas, 137 S.Ct. 1246 (2017).

Sadoff, D. A. (2008). International law and the mortal precipice: A legal policy critique of the death row phenomenon. *Tulane Journal of International & Comparative Law*, *17*, 77–111.

Sharkey, K. (2013). Delay in considering the constitutionality of inordinate delay: The death row phenomenon and the eighth amendment. *University of Pennsylvania Law Review*, *161*, 861–896.

Snell, T. (2014). *Capital punishment, 2013—Statistical tables*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. Retrieved from https://www.bjs.gov/content/pub/pdf/cp13st.pdf

Copyright American Psychological Association

State v. Moore, 591 N.W.2d 86 (Neb. 1999).

State v. Schackart, 947 P.2d 315 (Ariz. 1997).

Suffolk County District Attorney v. Watson, 411 N.E.2d 1274 (Mass. 1980).

Thompson v. McNeil, 556 U.S. 1114 (2009).

Thompson v. Secretary Dept. Corrections, 517 F.3d 1279 (11th Cir. 2008), *cert. denied*, 556 U.S. 1114 (2009).

Tongue, M. E. (2015). *Omnes vulnerant, postuma necat*: All the hours wound, the last one kills: The lengthy stay on death row in America. *Missouri Law Review*, *80*, 897–921.

Williams, J. J., & Murry, C. L. (2016). Dying on death row (other than by execution). *Corrections Today*, *78*(4), 40–44.