

*People v. Michael Angelo Morales*  
Background Information  
February, 2006



**Terri  
Lynn  
Winchell**



**Bill Lockyer, Attorney General  
Office of Victims Services**



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**Terri - Age 17**

## **Introduction**

On April 6, 1983, a California Superior Court jury in Ventura County convicted Michael Angelo Morales of the 1981 Lodi rape and murder of 17-year-old Terri Lynn Winchell. The jury found that Morales committed the murder while lying in wait, by means of torture and he had personally used a hammer and knife in the commission of the murder. The jury returned two verdicts imposing sentences of death for Terri Winchell's murder.

Over the past 23 years, Morales has presented a series of legal claims to state and federal courts challenging his conviction and sentence. Numerous courts have reviewed and rejected Morales' direct appeal, two state habeas corpus petitions and a federal habeas corpus petition.

Morales has now asked the Governor for a grant of clemency. The San Joaquin District Attorneys Office, which prosecuted Morales, will soon be filing a response. If the Governor grants clemency, Morales will not receive clemency unless the California Supreme Court concurs with the Governor's decision. The Supreme Court's concurrence is necessary because of Morales' prior felony convictions for robberies and burglary.

The purpose of this document is to provide background information on this case. In addition to factual descriptions of the crimes, we have included photographs of Terri Winchell and letters from friends and family members. Additionally, you will find a chronology of the litigation in this case, information on upcoming executions in California and general information on capital punishment in California.

For additional information, please contact either:

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## **Michael Morales**

### **Burglary and Robberies**

Morales was convicted of felony burglary on October 4, 1979 and sentenced to prison. Shortly after killing Terri Lynn Winchell, Morales was convicted of two counts of robbery for which he was eventually sentenced to state prison. In that case, Morales entered a market to purchase beer. When a store clerk would not allow him to purchase beer, he left and later returned with two companions. Morales and the two others held the clerk, put a knife to his face, hit him with a milk crate and kicked him. One of his companions then knocked down a pregnant female clerk who suffered numerous head and facial cuts. The total loss of money, merchandise and equipment damage was \$2,529.



**Terri - Age 16**

## **Terri Lynn Winchell 1981 Murder, Rape and Torture**

On January 8, 1981, twenty-one-year-old Michael Morales murdered and raped seventeen year-old Terri Lynn Winchell, with his nineteen-year-old cousin, Rick Ortega. In early 1980, Ortega and seventeen-year-old Randy Blythe had a homosexual relationship. During this time, Blythe also had a dating relationship with Terri Winchell. While Terri didn't know about the homosexual relationship of Blythe and Ortega, Ortega knew about Blythe's and Terri's relationship. Ortega was extremely jealous of this relationship.

Ortega and Morales conspired to murder Terri as "pay back" for Terri's involvement with Blythe. Ortega and Blythe had a stormy relationship. Ortega reacted in threatening manner to Blythe's attempts to end their relationship. Ortega was also openly hostile towards Terri. In the weeks before the murder, Ortega set up a ruse to trick Terri into believing that Ortega wanted to make amends and become her friend. Morales "practiced" how he was going to strangle Terri, and told his girlfriend on the day of the murder how he was going to strangle and "hurt" someone.

The day of the murder, Ortega tricked Terri into accompanying him and Morales in Ortega's car to a remote area near Lodi, California. There, Morales attacked Terri from behind and attempted to strangle her with his belt. Terri struggled and the belt broke in two. Morales then took out a hammer and began hitting Terri in the head with it. She screamed for Ortega to help and attempted to fight off the attack, ripping her own hair out of her scalp in the struggle. Morales beat Terri into unconsciousness, crushing her skull and leaving 23 identifiable wounds in her skull.

Morales took Terri from the car and instructed Ortega to leave and come back later. Ortega left and Morales then dragged Terri face-down across the road and into a vineyard. Morales then raped her while she lay unconscious. Morales then started to leave, but went back and stabbed Terri four times in the chest to make sure she died. Morales then left Terri, calling her "a fucking bitch," as he walked away. Terri died from both the head and chest wounds. Her body was left in the vineyard naked from the waist down, with her sweater and bra pulled up over her breasts.

Morales confessed to killing Terri to jailhouse informant Bruce Samuelson, as well as his girlfriend Raquel Cardenas and his housemate Patricia Flores. Morales threatened both Cardenas and Flores prior to his trial so they would not testify about what he told them. Specifically, he admitted that he sat behind Terri after she had been lured into Ortega's car, he put his belt around Terri's neck and strangled her until the belt broke, he repeatedly hit her over the head with a hammer until she was unconscious, he took her out of the car and dragged her into a vineyard, he raped her, and he left her but then returned to be "sure" she was dead.

Within two days of the murder, Morales was arrested at his residence. The police found Morales' broken belt, containing Terri's blood, hidden under a bedroom mattress. The police also found three knives, the hammer bearing traces of blood hidden in the refrigerator vegetable crisper, and blood-stained floor mats from Ortega's car in the trash. Terri's purse and credit card were also in the house. Ortega's blood-spattered car was impounded. Morales had used \$11 from Terri's purse to buy beer, wine, and cigarettes on the night of the murder.



**Terri - Age 17**



**Terri - 8 months**



**Mom and Baby Terri**

*~Barbara Christian~*



January 13, 2006

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Bldg  
Sacramento, CA 95814

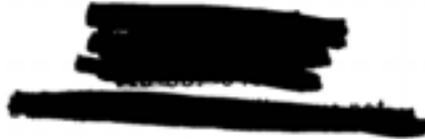
Charles F. Schultz  
Supervising Deputy District Attorney  
San Joaquin County District Attorney  
222 E. Weber Ave., Room 202  
Stockton, CA 95202

RE: Michael Morales/Terri Winchell Case # LA1983XSO966  
From: Terri Winchell's mother, Barbara Christian

The pain and heartache that Michael Morales inflicted on me and Terri's family will never end. She can never be replaced! She was our only daughter and sister. There is always an empty seat at our meals! When I hear a little girl call, "Mama!", I turn around and look. Pain strikes my heart like the knife he used on Terri! Agony! When I see a little girl with long, brown hair, or when I see a teenager that reminds me of her, my heart aches with loss! When I hear music played that she used to listen to or sing, I hurt! I see familiar places we used to be together. Memories, more pain! We sang and harmonized together. She was not only my beloved daughter, but she was my best friend. As a little child I taught her how to swim. I carefully and tearfully nursed her through her childhood illnesses and hurts. Christmas and Mothers Day are especially hard to get through. Every time I hear a date between 1963 and January 8, 1981, I think of how old Terri would have been then, and what we would have been doing at that time. My thoughts are constantly of her. I think of her each night when I go to bed, and I think of her when I awaken in the morning. I have to force my thoughts from her murder scene. She is never out of my mind. My little girl will never know the joy of having her own little child and hearing it call her "Mama"! I will never know the joy of being Grandma to little ones she might have had! My sons have lost their only beloved sister! We are all devastated!

*"Mine eye is consumed with grief, yea, my soul and my belly!  
For my life is spent with grief, and my years with sighing!" Psalm 31:9, 10*

~Barbara Christian~



She was a vital part of the community spreading joy and hope to others. She loved little children and delighted in ministering to them at the Special Olympics for handicapped children. What a lighthouse she was to everyone around her! Her voice was a gift from God, and she uplifted everyone who heard her sing!

She was such a vital and necessary part of our family! Every holiday gathering is always sad because there is an empty chair at the table! Yes, we are going on with our lives, but the pain and loss will be with us as long as we live! The agony will never end! Memories and love never die. The knife will never leave my heart! It has been twenty five long years of heartache and sorrow now. All of us who love Terri are desperate to see justice for this crime. It will not bring Terri back, but at least it will bring justice to a murder that took place twenty five long years ago. Why has this man been allowed to live when he has admitted that he joyfully and fiendishly destroyed my little girl? If he wanted to get rid of her, he could have mercifully killed her with a quick bullet to her head. Why did he have to torture and mutilate her? His penalty has rightfully been decided. The judge and jury did their part. It is high time for this monster to answer to God. There will never be closure for us as she can never be returned. However, we will have satisfaction that this monster will never be able to harm anyone again, that he will not have the breath of life while Terri lies cold in her grave, and that he will finally have to stand before God, the Supreme Judge, and answer to Him for this demonic crime!

*Barbara Christian*

*Barbara Christian.*

Mother of Terri Lynn Winchell

"Mine eye is consumed with grief, yea, my soul and my belly!  
For my life is spent with grief, and my years with sighing!" Psalm 31:9, 10

Mack A. Winchell

January 18, 2006

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Bldg  
Sacramento, CA 95814

Charles F. Schultz  
Supervising Deputy District Attorney  
San Joaquin County District Attorney  
222 E. Weber Ave., Room 202  
Stockton, CA 95202

RE: Execution of Michael Morales, Case #LA1983XSO966

I am the father of Terri Lynn Winchell. Only the parent of a murdered child could begin to imagine the pain I have been forced to live with for the past twenty five years. Terri's murder forever changed our lives.

Our three sons endured the horrors of war in Vietnam and Korea and lived to return as soldiers who had been proud to serve their country. Our little daughter was shielded and protected while her brothers lived in constant danger.

She was the light of our life giving us back so much love and joy. She became my little "Mookie" which meant Little Darling or Little Sweetheart. She was a very gifted child. She walked at 8 months old and began singing and playing the piano at three years of age. When she was seven years old she jumped out of a tree and broke her arm and dislocated her elbow. Her mother and I rushed her to the hospital, and I had to be the strong one for her as her mother became very sick at her stomach at our daughter's serious injury. I loved to take her fishing and camping. Another favorite thing we shared was going out to dinner. She loved steaks as well as I did. She especially liked the juicy fat on the steak, and we shared that joy together.

Then came the night her mother called me to tell me that Terri was missing. Terri had been such a caring and obedient daughter that it was unlike her not to let her mother know where she was. Fear for her safety rushed over me. Fear turned into agony as I learned that she had been murdered. I have never been the same. Morales also stuck a knife in my heart that night. It was months before I could look at her picture without having my heart torn out. I still can't listen to the tapes of her singing.

Michael Morales and Ricky Ortega destroyed the joy in our family. In just one night, they took our little girl out of our lives forever! Her mother, her brothers and I all are left with unending pain and loneliness for our little girl. It is inconceivable that Morales and Ortega have lived for twenty five years after they murdered Terri. They deserve to be executed! The lethal injection is too good for them. They cannot be called animals because animals do not kill and mutilate for the fun of it. These two monsters are inhuman and are not fit to live!!!

Mack A. Winchell  
Father of Terri Lynn Winchell  
*Mack A. Winchell*

[REDACTED]

January 29, 2006

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Bldg  
Sacramento, CA 95814

Charles F. Schultz  
Supervising Deputy District Attorney  
San Joaquin County District Attorney  
222 E. Weber Ave., Room 202  
Stockton, CA 95202

RE: Pending Execution of Michael Morales – Feb 21, 2006 - Case # LA1983XSO966

It is much to my dismay that I am writing you regarding clemency for the man that has admitted to the brutal rape, torture and murder of my sister Terry Winchell that occurred 25 years ago. I was nine years old when these brutalities occurred and remember all too clearly that night and the morning after my sister's life was literally choked, beaten, stabbed and crushed out of her.

Terri and I were the youngest in our family and took pride in the fact that our older brothers freely served our great country with honor and valor in a time of need. I remember listening to the tapes of her singing up on stage at seven years old. I remember watching her play the piano and sing to an auditorium full of people, comfortable and knowing she was making everyone feel good. She was an artist but music was her love. We shared a room together and I remember her teaching me how to pray and how it's important that we not only pray for our families and us but also pray for our enemies. I was too young to understand this, but she understood all too well that we are to love our enemies. How many can say this and actually walk it out? Her last deed was one of kindness and mercy for a psychopath who in turn, gave her no mercy. She was a true blessing and benefit to society.

We, as family, and friends, have had a void in our lives for the past 25 years. An empty seat at the dinner table, sorrowful conversations of remembrance, too many tears shed. Having to explain to our young ones what happened to their Auntie Terri, whom they've never had a chance to meet, having to explain to friends who this beautiful girl is in all these pictures. This is not just something that has happened 25 years ago and it's not just something that has regretfully been stirred up in all of our lives again thanks to all the media and protesters of the death penalty. It was a life changing crime that has not only tortured one innocent life but also the lives of many and should have never happened!

It has been a long, lonely journey for me to get where I am today. Not to have my sister there when I trudged through high school. The solitude I felt when struggling through my early teenage relationships. Remembering how much she loved sports, then lamenting on the fact that she will never be able to see me compete. Watching the sorrow in my Moms eyes over the years get darker and darker the older she gets. Terri was my Mother's only daughter and her best friend. She was everything to my mother. No one from the murderers family has ever even sent their condolences to my Mother or our family. Imagine for a moment if you will, having such a beautiful child who excelled in everything she did, then to have that precious gift tortured and mutilated by an unremorseful deviant of society.

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There is no doubt that anyone would agree after reading the events that took place, that this was a horrific crime of unfathomable evil. To belittle this life changing event by suggesting that Michael Morales be granted clemency is an insult to say the least. To have to listen to protestors of the death penalty who have never gone through this type of tragedy and who are making us, the victims, out to be the "bad guys" for wanting to see his sentence completed is an atrocity!

We live in a beautiful country, with a strict set of laws. Wars have been fought and blood has been shed to uphold our freedoms and safety. Whether you believe in God or not, you can agree that we have been given free will to choose our own path in life. No one can take this away and no one can argue that choosing to live by the law or against the law is our choice to make. Every choice we make in life has consequences weather good or bad. When we choose to break the law, we give up our rights and have to suffer the consequences and pay the fine whether we want to or not. It's the law. Morales knew the law before he committed this capital crime. He freely chose to break, not only "mans law", but also the moral law God placed on all of our hearts as sentient human beings with free will.

Morales has already spent more time in the safety of "Death Row" then my sister was allowed to spend in this life. She was not given any appeals for her life and her cries for help went unnoticed except for the men who hatefully cut her life short. Morales has been given rights he never allowed my sister. It's taken far too long to move to the next step in his sentence. If the death penalty is going to take this long to finish the sentence, then we should put these men in "general population" where they might be dealt with accordingly. It is frustrating to know that me, my family and friends have been paying for 25 years to keep this man safe and healthy behind bars while we're all missing the chance to share our lives with Terri. Some have said that he is remorseful and has given his life to God. I can only hope this is true, but that's between him and God. As believers we are bound to obey the laws of the land, and we eagerly wait in anticipation to meet our Lord, and if he truly has given his life to God, he should follow through with his sentence like a man. The fact that he is fighting this proves otherwise. ("A tree shall be known by its fruit") Now with your help, he will be put to sleep in a quiet, controlled environment. That's more then he gave my sister. Is that fair? At least it's justice upheld by the law.

It's too bad that people are forcing their views on the death penalty in a situation like this. We all have the right to believe how we want to believe, but this is not a question of "Should the death penalty stand?" It is a question of "Should this sentence be carried out?" If you grant this murderer clemency after he has admitted, been tried, convicted, and been given years of appeals, you will shatter and violate the very thing you are sworn to uphold. What would that tell the rest of society about our legal system? The death penalty is for extreme cases and this most certainly qualifies. Too many thousands of our taxpayer dollars have been spent to keep this man alive and healthy. Too many tears have been shed, too many hearts have been broken, and too many lives have been altered and affected by the choice of this evildoer. Since you have been sworn to uphold the law, I know you will do the right thing by not granting this murder clemency.

Thank you for taking the time to read this letter and for doing the best you can in your office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Chalk', with a stylized flourish extending to the right.

Brian Chalk  
Brother of Terri Lynn Winchell

[REDACTED] [REDACTED] [REDACTED]

## ATTN. JEANINE VELASQUEZ

To Whom It May Concern:

My name is David Winchell the brother of Terri Lynn Winchell, who was so viciously MURDERED by Michael Morales in 1981. Nothing will bring back my sister, a person who was a BLESSING to those she met and came into contact with. I remember her growing up what a joy my little sister was. She had a beautiful heart and filled with God's love and compassion for others which led her to help Ortega find a gift for his (so called girl friend) Ortega lured her to her murder. She never spread rumors that Ortega was a homosexual. He was jealous of her friendship with a boy named Randy, which was Ricky's gay lover. Terri had no ideal that Randy was homosexual, Randy led onto Terri that he was a good church going Christian. Morales and Ortega lured my sister to her death, and I am sure they enjoyed killing her. Strangling and bludgeoning her with a hammer and stabbing with a knife till she was DEAD, then raping her and left her naked in a field so the bugs and buzzard could eat her. NO MERCY NO PARDON NO CLEMENCY FOR MICHAEL MORALES. ORTEGA SHOULD BE PUT TO DEATH FOR HIS PART IN THE MURDER OF MY SISTER TERRI LYNN WINCHELL. No amount of pain Morales might suffer while being put to death can compare to the PAIN my sister Terri Lynn Winchell felt while being MURDERED by these two sick people. I feel some sympathy for Morales mother and family that they are about to loose Michael. Morales murdered my sister and now has got to pay the price. My mother has never really recovered from the loss of her only daughter and my family has been denied the joy and love my sister had and would have brought to our lives. Morales is not sorry for the murder of Terri Lynn Winchell, HE IS SORRY HE GOT CAUGHT!!! How many other crimes did he commit before killing my sister Terri Lynn Winchell. Why did his cousin ask Morales to help him other than Ortega knew that Morales was a MURDERER? May God have no mercy on Morales and Ortega on that day of judgment.

David Lee Winchell, 10-year-older brother of Terri Lynn Winchell.  
January 28, 2008

*David Winchell - 1-28-06*

Bradley S. Winchell

January 13, 2006

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Bldg.  
Sacramento, Ca 95814

Charles F. Schultz  
Supervising Deputy District Attorney  
San Joaquin County District Attorney  
222 E. Webber Ave. Room 202  
Stockton, Ca 95202

RE: Michael Morales/Terri Winchell Case # LA1983XS0966  
From: Terri Winchell's brother, Bradley S. Winchell

I am sending this letter in efforts to let you know the family of my sister including me wants to see justice carried out for Michael Morales. That justice will be carried out when Morales meets my little sister's father who she accepted as Jesus Christ. Our family has waited long enough for the state to carry out the jury's sentence of Death. The way I feel about Morales is that he is a coward bastard who deserves to die. He ruined our lives forever. Every time I pass through Lodi, California and see grape vineyards I get emotionally sick, angry, and sad that my sister had no one there to defend her against this cold blooded murder committed by Morales. My sister's murder pains me very deeply and this is a pain that will never end while I am alive.

Morales being executed will ease part of that pain, never end it. There is not a day that goes by that I do not have a thought of Terri. My daughter was 7 months old when her aunt was taken out by this bastard, now she is 26 years old with a son of 7 years, my grandson; they both along with us were cheated out of sharing the walk of life, love and family with Terri.

  
Bradley S. Winchell  
Brother of Terri Lynn Winchell

1/16/2006

Office of the Attorney General  
1300 I Street  
Sacramento, CA 95814

Attn: Jeanine Velasquez  
RE: Pending Execution of Michael Morales – Feb, 21, 2006

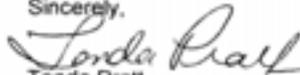
Dear Ms. Velasquez

I am writing to address our concerns regarding any potential clemency for Michael Morales in light of his upcoming execution. His young murder victim, Terri Winchell, was a very special person to my family. We grew up as cousins and were very close. We have been waiting for justice to be completed for 25 years now, waiting and waiting, to the point that no closure can be accomplished until this sentence is carried out. You have no idea how painful this process has been and how difficult it has been to watch the years of torture take its toll on her mother and brothers.

25 year ago we were young, full of expectation and looking forward to a bright future. Terri had recently sung at our wedding, which was such an honor as she was not only beautiful but had a captivating voice. We felt she would go far with her talents and loved watching her blossom into a beautiful young woman. But this life was cut too short by an evil person that had never even met her. Instead of planning our lives I found myself planning her funeral. My husband and I were at the police station when they found her body in a vineyard that night. After searching for her without success this outcome was something I can barely relive in my mind as it is all still so fresh. The horror of it all will haunt me forever. But what I remember the most is the smirks and evil look on this murderer's face as they brought him into the police station. I am convinced that this type of evil must not be allowed to escape his sentence. This nightmare must end.

This execution is our last resort in this long journey. We are often asked, since our family is Christian, if we have mercy for Michael Morales. I know we believe that forgiveness best comes when justice prevails and mercy is not ours to give but God's. God is the only person to fully carry out vengeance and justice, as it belongs to Him. And so we wait. This process has already been delayed beyond comprehension. Since it was never any doubt whether Mr. Morales committed this murderous act, there is no fathomable reason why this execution should be delayed any longer. We plead with you for justice to be completed so healing can finally begin for so many involved. It's time this matter be concluded and this man be handed over to God. This innocent young girl, Terri, deserves to be represented now. This sentence being carried out is her only vindication.

Sincerely,

  
Tonda Pratt  
TP

January 17, 2006

  
The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Bldg  
Sacramento, CA 95814

Charles F. Schultz  
Supervising Deputy District Attorney  
San Joaquin County District Attorney  
222 E. Weber Ave., Room 202  
Stockton, CA 95202

RE: Pending Execution of Michael Morales – Feb, 21, 2006

I am writing to request that you reject any bids by Michael Morales for clemency as we near the date of his execution. He was sentenced to death for the murder of my husband's sister and has avoided the punishment for 25 years too long. My husband was robbed of the chance to raise his family alongside of his sister.

Brian has told me about the close bond that his mother and sister shared I have seen the pain behind Barbara's dark eyes from the day I met her. Terri is remembered at every family gathering and her picture can be found in almost every room of our house. Our children have been told about what a special and wonderful young lady their Auntie Terri was, but they will never have the chance to meet her.

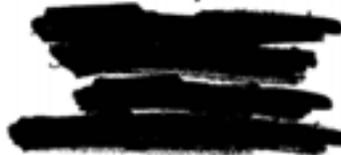
Terri's death was brutal and her murderer was unremorseful. The death of Michael Morales will not bring Terri back to us, but it will close this chapter and allow for healing to begin.

Thank you for your time:

  
Jessica Chalk  
Sister-in-Law to Terri Lynn Winchell

Copy to:  
Jeanine Velasquez, Victim Advocate  
Office of Victims Services  
Department of Justice  
1300 I Street, Suite 1150-4  
Sacramento, CA 95814

*- Brenda Fritts -*



January 16, 2006

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, CA 95814

Charles F. Schultz  
Supervising Deputy District Attorney  
San Joaquin County District Attorney  
222 E. Weber Ave., Room 202  
Stockton, CA 95202

RE: Michael Morales/Terri Winchell Case #LA1983XS0966

In 1957, my parents left all their family in Illinois and Iowa, coming to California. My father had a friend here and that's all the excuse he needed to move to sunny California. Dad was prone to a passion for alcohol. To complicate matters, I was a chronic asthmatic. When I was five, my mother became pregnant. Loneliness, fear and sadness became the norm for my mother. The years ahead would be turbulent, at best. My parents would separate, then reconcile only to separate again. Eventually they would become divorced for good.

I believe it was around 1959/1960, during a separation time, my mother met Barbara Winchell. They immediately became fast friends as they had much in common; both had drinking husbands, both spent long hours alone minding the kids, and they both shared a love for Jesus and for singing country gospel music. My Mom had found a "sister" in Barbara, and their friendship grew very strong. We all spent a lot of time together. Barbara had three sons, and she had desperately wanted a daughter. It was 1963 when Terri was born; I was nine.

As the years went by, both my mother and Barbara divorced their husbands, met and married different men. Having been through hardships together, Mom and Barb's friendship continued to grow. Their new husbands were active in the church and they formed a gospel singing group that traveled around to local churches and performed. We all came to love little Terri as if she were part of our family ... because in the real sense, she was. She was a delight to all.

I'm telling you all of this so you will understand the relationship established between our two families. Terri was like a little sister to me, and like a precious niece to my mother. Terri was very talented, and from the time she was very tiny she would sing with Mom and Barbara. This thrilled my mother and by the time Terri was 5, she was quite a little performer. Poised beyond her years, she had an angelic spirit that would cause anyone to smile. She was flamboyant, vibrant and beautiful. We all loved her very much.

The night Terri disappeared, I remember Barbara calling my house and asking if Terri had stopped by. (This would have been out of character as she never did anything her mother didn't know about) I told her I hadn't seen her. It was only about 11:30 pm - but Barbara said she knew Terri was "gone". I felt this was a little extreme, but then my mother called and we ended up all going to Barbara's house to endure the nightmare that was to unfold over the next few days.

There is no need to talk about what happened ... it's all common knowledge around the entire community. There's also no need to talk about the guilt of Michael Morales, not to mention his cousin, Ricky Ortega. They've admitted to what they did. The point I want to make is this: In addition to killing Terri Lynn that night, Michael Morales also killed my mother. The cry of agony coming from Mom was a cry I had never heard before and didn't hear again. Terri's death (and the brutality of it all) pushed my mother over the edge.

This was frightening to my sister and I as our mother was a very strong woman. All I remember is days of her sobbing uncontrollably, of having to sedate her, the months of numbness and depression that surrounded our family. My mother was never the same. She was so devastated by the savageness of the murder upon such a sweet and innocent young lady, she simply never recovered. She continued to live another 23 years, but there was a sorrow in her eyes that never healed. She died a couple years ago, anxious to go home to be with Terri.

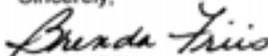
Michael Morales robbed me of a little sister, he robbed me of watching her enjoy all the treasures of life; her wedding day, the birth of her children. He robbed me of my own children knowing her and enjoying the beauty she offered so freely. He forced me to have to explain to my own young child why Terri was no longer with us. He has forced me to live in a guarded manner, having fully experienced the "what ifs" of life.

The fact that Michael Morales is still here, that he's even a consideration at this time (25 years after her murder) is a travesty. It's the very element that makes one cynical about our judicial system, and yes, I am cynical.

There's not a day goes by that I don't think of Terri. Unfortunately with every remembrance of her, comes the hideous remembrance of Michael Morales. Isn't it amazing that a man I've never even met has affected my life (and countless others) in such a devastating way. Terri Lynn Winchell is not the only murder he committed that day.

It is my plea that he be allowed the opportunity to face death in such a sympathetic manner as a lethal injection. P-L-E-A-S-E!

Sincerely,



Brenda Friis  
Close Personal Friend

Copy to:  
Jeanine Velasquez, Victim Advocate  
Office of Victims' Services  
Department of Justice  
1300 I Street, Suite 1150-4  
Sacramento, CA 95814

January 14, 2006

Jeanine Velasquez  
Office of the Attorney General  
1300 I Street  
Sacramento, CA 95814

Dear Ms. Velasquez,

I'm writing this letter to let you know that my life changed the night of January 8, 1981. I will never forget the call I got from Barbara, Terri Winchells mother. Also the night I was wakened with the news that my BEST, CLOSEST, DEAREST friends lifeless body was found in a vineyard. Terri and I were not only friends she was my sister. You see my mom began babysitting Terri at the age of two. Her mother worked long hours, which meant a lot of playtime. We did everything together and planned to always be there for each other. We were until Michael Morales took her into his hands and brutally murdered her.

Michael Morales has gotten 25 years longer to breath, eat, sleep, communicate with family, laugh and cry. It is his time to meet and be judged by the Almighty God!

Michael Morales's death won't bring Terri back, but it will bring some closure.

Yet I will never forget the 15 wonderful years I had with my friend and sister Terri Lynn Winchell!

Thank you for your time!

Blessings,  
Deanna Ball

A handwritten signature in cursive script that reads "Deanna Ball". The signature is written in dark ink and is positioned below the typed name "Deanna Ball".

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capital Building  
Sacramento CA. 95814

Dear Governor Schwarzenegger,

It is with much thought and consideration that I write these words to you. Today, January 8, 2006 marks twenty five years that my best friend Terri Lynn Winchell was murdered. Since her murder, every year in my life I recall this date and always wondered what could I have done to have changed the course of events that led up to her death. We were both seniors in high school. We were looking forward to our school prom, our senior trip, plans for what college we were going to apply to and dreamed of marriage, becoming a wife and mother. So much has happened since Terri has been gone from our lives. Seeing my reflection in the mirror reminds me of that every morning.

Time has helped numb the events of that horrific night. The years that followed I have struggled with the paralyzing fear that Michael Angelo Morales would somehow hurt my family. I testified on the behalf of the State in convicting him. During the years the State was preparing its case, I was sent away to live in Mexico with my Aunt and Uncle. Mr. Morales was a member of a gang called "Little Unity". I had received threats on my life that if I were to testify against him, that what happened to Terri would also happen to me and my family. My parents sent my sisters to stay with other relatives to keep us from harm. Overnight it seemed that our family was torn apart and our lives were in pure chaos.

I lived in Mexico for 1 year. Then I moved to Glendale, California with other relatives for 6 months. I longed so much to be back home in Lodi. When I finally did get to come home, my parents were very protective of me and kept me close to home. My house was like a prison. I felt safe in my house, but I was so lonely and apart from the world.

I had to learn to want to live again. My dreams had turned into nightmares. And I didn't know how to move forward after Terri's murder. I had to find the courage each day to bring me closer to the day I would have to testify in court for Terri's trial.

Being in the courtroom with her killer was extremely emotional for me. I remember I could not stop my body from shaking. It was difficult to speak and to breath. I could only look at the judge with tears falling down my face and mouth the words "I'm sorry". He was kind enough to recess my testimony for 15 minutes while I tried to compose myself. District Attorney Garber escorted me out of the courtroom. I was so embarrassed. For two years I tried to imagine myself in the courtroom and how this scene would play itself out. I wanted to be strong for Terri. And I felt so much hate for Mr. Morales. I wanted to hurt him like he had hurt Terri and me.

When District Attorney Garber and I left the courtroom, my mother was in the reception area. I was crying uncontrollably and saying that I was sorry to District Attorney Garber. My mother held me close to try and comfort me. She took me to the ladies restroom. There, she spoke softly to me while she held my face in her hands. These words she spoke to me. "My sweet child, I know this is the most difficult thing you could ever have imagined happening to you in your life. I see that you are afraid, not for yourself but for your sisters, your father and me. We love you so much. All that has happened to you and our family is a test. We have always taught you right from wrong. You have a strong and beautiful soul. Your truth and love for your friend Terri is still here in you heart. No one can ever take that away from you. Trust it. Be

not afraid to tell the truth about what you know. Remember your promise to Terri. You are here to bring her justice. And you will do so with your head high. Show them in the courtroom who you are. Tell them who Terri was to you in your life. They will see you, they will see her and you can walk tall in that truth. Only then can you be able to walk towards your future.”

I hugged my mother like never before. I washed my face and I returned to the courtroom. I apologized to the judge and the jury panel. And I focused on District Attorney Garber. I found my voice and I was strong. And I told the truth about what I knew to the jury members. Looking back on that day when I was on the witness stand, I realized that I was no longer a child. I was a young woman who kept a promise of truth for my friend Terri. All of us who loved Terri have felt so helpless in that we could not have been there to save her from the brutality that Mr. Morales committed upon her.

Murder as described in Webster’s Dictionary states this ... Murder; homicide with premeditation and malicious intent to kill. This description is what Mr. Morales committed upon Terri Lynn Winchell on January 8, 1981. Clemency is defined as ... Mercy shown by someone whose duty or function it is to administer justice or punish offenses.

The jurors in Terri’s trial weighed all the evidence and found that Mr. Morales had merit to receive the death penalty. He has never shown remorse or taken responsibility for his cruel action towards Terri. Rather, he has given excuses for himself. That he was on PCP and alcohol while he committed this murder, that he didn’t get a fair trial and that the reason he got the death penalty is because he is of Mexican descent. His attorney tried his case and he was judge by a jury of his peers. After twenty five years I wonder has he pondered on all the people other than Terri that he has hurt. (Attached please read the letter I have sent to him.)

Governor Schwarzenegger, I commend you for your service to my home State of California. I think of the awesome responsibility that you have taken onto yourself on all the matters that pertain to governing our beautiful State. And I know that this situation of granting or denying clemency must be heavy on your heart. What Mr. Morales has done can not be changed. Terri is gone. And she did not deserve to be strangled, or to be beaten with a hammer, or stab with a knife and raped and left to bleed to death from shock. He left her body in a vineyard on a cold dark night. For 52 hours her family and friends along with the Stockton Police Department searched for her. Those officers had worked with Terri’s mother Barbara who had worked as a dispatcher until her retirement in October of 1980. The officers who finally found her have never forgotten the crime scene. They had to tell one of their own that her precious little girl was dead.

Our entire community along with the Tokay High School student body mourned for her. She struggled and fought with all her might and she begged for her life. Mr. Morales showed her no mercy. This is the last phase of a long and difficult journey in finding justice for Terri Lynn Winchell. I am prepared to complete this last phase because I was just one voice that spoke for Terri. And I stand tall in justice for her.

Governor Schwarzenegger I will pray for you and your family and may God guide you with his wisdom. After you review the case on Morales vs State of California, it is with confidence that I request that your decision be that you deny his clemency.

Respectfully,

Christina Salaires-Landre

January 17, 2006

Jeanine Velasquez  
Office of the Attorney General  
1300 I Street  
Sacramento, Ca. 95814

Dear Jeanine,

I am writing this letter to you on behalf of a wonderful girl that was killed and tortured by Mike Morales. Her rights and life was taken from her on a cold January night in 1981 in a vineyard near Lodi, Ca. He is to be put to death in February for the murder of our darling little angel. He must not get clemency for being a Monster. He took a beautiful and talented girl who would have enriched any community or group of people she may have lived near.

Terri Winchell, the only daughter of my best friend, was a good, giving and loving girl. She was a top student and had many friends. Barbara needs to have closure for this crime that changed her world forever. A wonderful and giving family that was a pleasure to have in my home.

We loved Terri like a daughter and we miss her and her talented voice and music that she wrote. The important thing to remember is that The Beauty was killed by the Beast. It is now his time to pay for a useless crime!

Please put this man to death for the crime of taking a beautiful life. He had nothing to gain in this.

Thank you,

*Jacqueline & Eldon Miles*  




**Mom and Terri - Age 4**

~ WITHOUT YOU ~

(to Terri Lynn)

Going on without you is so hard, my little girl,  
the pain is such a heavy load to bear;  
There seems to be no moment when you're not upon my mind,  
and little things I want so much to share.

You were such a rainbow full of sunshine, love and joy,  
your presence filled my life and made it sweet;  
Why God blest me with an angel such as you I do not know,  
I only know you made my life complete!

The years have passed, but oh the pain still lingers in my heart,  
It never seems to lessen through the years;  
I watch the sky and try to catch a glimpse of Heaven's land,  
I call, and try to see you through my tears!

But there's a veil between us, and I cannot get across,  
and your name, unanswered, comes again to me;  
And I am left, amidst my tears, in silence and alone,  
with nothing left, but pain and memory!

My little girl, you cannot know, how much I loved you so,  
but if the Lord to me could condescend ...  
I'd climb the stars to Heaven's gate, and pray on bended knees,  
for just a chance to see you, once again!

Love, your Mother,  
Barbara Christian



**Terri - Age 7**

Review

# Variety Show entertains

by Elena Flumiani

**F**or the second year in a row, the Drama Department took on the annual Variety Show as its own project and entertained a good audience for three nights last weekend.

The beginning of the show was an overture by the Stage Band, but the "Broadway" flashing lights were a little overdone as people began to blink with them.

MC's Randy Friesen and Connie Meadows gave an effective welcome when they sang "Give My Regards to Broadway," and Debbie Davison and Tina Sanchez added to it by dancing a routine to "Showtime."

"Guess What's Coming to Dinner," the first skit, was a take-off on a Carol Burnett sketch, which was silly but cute. Next was the first in a series of spot commercials which appeared often throughout the show and definitely added to it.

Another phase of the program that people enjoyed was the solos. Although it was unclear why they should be, some soloists seemed nervous. But one, Terri Windhell, was clearly outstanding. She sang with confidence and ease, putting meaning into her song and really enjoying it. She not only sang well, she played the piano equally well.

Also appearing frequently during the evening was the magic of Shawn Odell. Her acts were cute, quick, a little silly, but enjoyable. They gave the audiences a good laugh.

Only one comedian appeared throughout the program, Donn Ayala. His act was entitled

"Original Material," but it was definitely not. Thus the title became part of the act.

A "Comic Duet for Cats," a little song done by the masters of ceremonies, was also pleasurable. They sang the entire song like cats, in an opera.

Contrasted with opera, however, were a few disco numbers. First, "Do You Love What You Feel?" was done by Jackie Nerro, Robin Mitchell, Terri Kenoly, and Yvonne Lewis. Then there was "Don't Stop Till You Get Enough" presented by Chris Smith, Cliff Smith, and Gwen Smith, a pretty good imitation of Michael Jackson.

And once again the show was blessed by a wonderful, talented, and good looking (to say the least) Barbershop Quartet. The boys, Brad Humphrey, Rick Chaddock, Bryan Stromborn, and Jerry Barnhardt, returned this year by popular demand and brightened the show with their voices.

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Thanks to KSRT-FM for its help with this review.

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<b>Happy Sweet Sixteen</b>
<b>Val Eproson</b>
<b>Munchkin Woman</b>
<b>Chicken Bone</b>
<b>Best Wishes,</b>
<b>Elena &amp; Terri</b>

<b>Chopping Block Deli</b>	
<b>412 W. Lodi Avenue</b>	<b>369-0924</b>
10" Pizza.....	\$4.49
17" Submarine.....	4.69
Mini pizza.....	1.89
Pizza popovers.....	1.69
<b>\$1.00 OFF COUPON</b>	
on	
pizza or large submarine	

## Case Chronology

### The Crimes

- January 8, 1981                      Morales murders Terri Winchell in San Joaquin County by attempting to strangle her, beating her over the head with a hammer and stabbing her in the chest with a knife. He also rapes her before killing her.
- January 9, 1981                      Rick Ortega is brought in for questioning about the disappearance of Terri Winchell and confesses to committing the murder of Terri Winchell with his cousin Michael Morales.
- January 10, 1981                      Morales is arrested for the murder of Terri Winchell.

### The Trial

- April 6, 1983                          After a change of venue is granted, Morales is convicted in Ventura County Superior Court for the murder and rape of Terri Winchell. Morales is further convicted of conspiracy to commit murder.
- April 25, 1983                          After a penalty trial, the jury returns a verdict of death.

### Appeals

- April 6 , 1989                          California Supreme Court affirms the conviction and death sentence in *People v. Morales*, 48 Cal.3d 527 [Crim. No. 23153/S004552]
- June 26, 1989                          Ventura County Superior Court sets scheduled execution date for September 22, 1989.
- July 13, 1989                          California Supreme Court stays execution pending determination of petition for writ of certiorari.
- November 27, 1989                      United States Supreme Court denies certiorari in *Morales v. California*, 493 U.S. 984 [No. 89-5534]

December 18, 1990	Ventura County Superior Court sets second scheduled execution date for February 15, 1991.
February 8, 1991	United States District Court for the Central District of California stays execution pending appointment of new counsel and determination of petition for writ of habeas corpus in <i>Morales v. Vasquez</i> , No. CV- 91-0682-WPG.
March 25, 1991	United States District Court for the Central District of California further stays execution pending appointment of new counsel.
April 24, 1991	United States District Court for the Central District of California further stays execution to allow newly-appointed counsel by August 22, 1991 to prepare petition for writ of habeas corpus.
August 9, 1991	United States District Court for the Central District of California further stays execution pending final disposition of petition for writ of habeas corpus.
July 20, 1992	Morales files petition for writ of habeas corpus in United States District Court for Central District of California; case now entitled <i>Morales v. Vasquez</i> , No. CV-91-0682-DT
November 16, 1992	United States District Court dismisses 32 claims in the petition and orders an answer on the 20 remaining claims.
December 16, 1992	Morales files his first petition for writ of habeas corpus in California Supreme Court, No. S030276.
April 21, 1993	Morales files second petition for writ of habeas corpus in California Supreme Court, No. S032386.
July 28, 1993	California Supreme Court denies as untimely and on the merits both petitions for writ of habeas corpus in separate orders. <i>In re Morales</i> , Nos. S030276 & S032386. [unpublished orders]
January 14, 1994	Morales files first amended petition for writ of habeas corpus in United States District Court for Central District of California.

April 22, 1994	United States District Court dismisses first amended petition for writ of habeas corpus as untimely.
November 9, 2001	United States Court of Appeals for the Ninth Circuit reverses the dismissal and remands the case back to the district court to be heard on the merits in <i>Morales v. Calderon</i> , 85 F.3d 1387.
October 10, 2002	The district court grants summary judgment denying relief on 32 claims that had previously been dismissed as untimely.
March 19, 1999	The district court denies relief on last of series of summary judgment motions disposing of all of the remaining 20 claims. The petition for writ of habeas corpus is denied.
July 9, 1999	Morales files a notice of appeal.
July 28, 2003	United States Court of Appeals for the Ninth Circuit issues its opinion and affirms the denial of relief. <i>Morales v. Woodford</i> , 99-99020.
October 21, 2004	United States Court of Appeals for the Ninth Circuit issues its amended opinion and again affirms the denial of relief. <i>Morales v. Woodford</i> , 388 F.3d 1159.
March 1, 2005	Ninth Circuit denies the petition for rehearing and petition for rehearing en banc.
June 29, 2005	Morales files petition for writ of certiorari
October 11, 2005	United States Supreme Court denies petition for writ of certiorari in <i>Morales v. Brown</i> , No. 05-23.
January 18, 2006	Ventura County Superior Court sets third scheduled execution date for February 21, 2006.

## Upcoming Executions in California

The three (3) additional capital cases that could possibly receive an execution date in 2006 are:

Mitchell Carlton Sims. On December 8, 2005, a three-judge panel of the Ninth Circuit Court of Appeals rejected Sims' legal claims for relief, and the court also declined en banc review. As a result, Sims' remaining legal option is to ask the US Supreme Court ("SCOTUS") to review his case. Sims will likely file a petition for writ of certiorari (request for SCOTUS to review his legal claims) sometime in the next few weeks. SCOTUS can choose to act on Sims' request at any time. If SCOTUS declines to review Sims' case during its current term, the Los Angeles District Attorney will seek an execution date in 2006.

In 1984, Mitchell Sims was hired by Domino's Pizza in South Carolina. He came to believe his boss was responsible for Sims' losing a portion of a bonus to which Sims thought he was entitled. In November of 1985, Sims was hired as a delivery driver by another Domino's Pizza establishment, located in Hanahan, South Carolina. Approximately two weeks later, on the night of December 3, 1985, Sims murdered two employees who worked at the restaurant: Gary Melkie, assistant manager, and Chris Zerr, delivery driver.

Sims and his girlfriend/accomplice, Ruby Padgett, fled to California. After arriving in Glendale on December 8, Sims visited the local Domino's, claiming he needed directions. The following night, he called the pizza store at 11:03 p.m. and ordered pizza to be delivered to his nearby motel room. At 11:26 p.m., 21-year-old Domino's employee John Harrigan left the parlor in his Toyota truck to deliver the pizza.

At approximately 11:45 p.m., Sims and Padgett entered the Domino's Pizza parlor. Sims approached the front counter, pointed a gun at the manager and ordered the employees into a back office. The manager Spiroff warned Sims that a delivery driver was expected to return shortly. Sims removed his sweater, revealed a Domino's Pizza shirt bearing John Harrigan's name tag, and chuckled, "No, I don't think so."

The employees were placed in a freezer and tied by the neck with rope fashioned in such a way that they were forced to stand on tiptoes to avoid strangling. Sims and Padgett emptied the store's register, robbed the employees and left. Police officers arrived at the Domino's Pizza parlor at 12:30 a.m, having been alerted by an off-duty Domino's employee who had coincidentally entered the store. Police rescued the employees in the store.

After proceeding to the motel room, the officers heard the sound of running water from inside the bathroom. Opening the bathroom door, an officer found the dead body of Harrigan in the bathtub. The bathtub was full of water, and Harrigan's body was submerged under the water with his back parallel to the side of the tub. His head was located immediately under the water spout, submerged approximately one inch under the water line, with cold water running onto the back of his neck. His wrists had been bound behind his back; his ankles had been bound, and his feet and hands had been "hogtied" together behind his back. His head had been covered with a pillowcase bound tightly around his neck with a rope. A folded washcloth had been placed inside his mouth, secured by a sock tied around his head.

Following the trial and conviction in the California case, Sims was tried and convicted in South Carolina of the murders of Melkie and Zerr during the commission of a robbery, and was sentenced to death. The convictions and sentence of death were affirmed by the Supreme Court of South Carolina.

Kevin Cooper. On February 9, 2004, the eve of his scheduled execution, an en banc panel of the Ninth Circuit granted Cooper's request to file a successive habeas corpus petition in federal district court in order that "easily available" scientific tests could be conducted to determine Cooper's innocence. After conducting the requested tests (which confirmed Cooper's guilt) and exploring numerous other evidentiary matters at the request of Cooper, the federal district court in May 2005 denied his habeas petition. Cooper is now seeking review of the lower court decision in the Ninth Circuit, and briefing on the matter is scheduled to conclude January 27, 2006.

After this briefing is concluded, the Ninth Circuit has a variety of options. Depending upon what course of action it chooses, and if Cooper is denied relief, Cooper's case could result in an execution date in the spring of 2006 or sometime in 2007 or even later.

Among other offenses, Cooper was convicted of the 1984 first-degree murders of Doug Ryen, Peggy Ryen, Jessica Ryen and Christopher Hughes. The jury sentenced Cooper to death after finding a special circumstance of multiple murder.

Cooper had been an inmate at the California Institute for Men, a state prison located in Chino in San Bernardino County. Cooper had been convicted of burglary under the name of David Trautman. On June 1, 1983, he was transferred to a minimum security portion of the prison. The next afternoon, on June 2, 1983, he escaped on foot and made his way to a house in the nearby Chino Hills (the Lease house), where no one was living at the time. Cooper was the subject of a massive manhunt following his escape from prison. He slept in the closet of the bedroom nearest the garage. The Lease house was the closest neighbor to the Ryen house, about 126 yards away. The window by the Lease house fireplace

provided a view of the Ryen house. Cooper unsuccessfully sought assistance from two former girlfriends in an effort to get out of the area. Failing to get the help he needed to escape, and realizing he could not remain in the Lease house indefinitely, Cooper found himself in a desperate situation. So, on the night of June 4-5, 1983, Cooper murdered Doug and Peggy Ryen, their 10 year-old daughter Jessica Ryen, and a neighbor boy, 11 year-old Chris Hughes, who was spending the night with the sole survivor, eight year-old Josh Ryen. The California Supreme Court referred to the crime as a “nocturnal massacre.”

Cooper used a hatchet and a buck knife from the Lease house to commit the murders. Doug Ryen had at least 37 separate wounds, Peggy 32, Jessica 46, and Chris 25. Jessica also had some chest wounds, probably inflicted after death by a pointed instrument such as an ice pick, which Cooper used to carve on her chest. Josh had fewer injuries, including wounds to the head caused by a hatchet and a stab wound in the throat. The evidence indicated Cooper helped himself to a can of beer from the Ryen refrigerator after slaughtering his victims.

Cooper stole the Ryen family station wagon. The car was recovered in Long Beach on June 5, 1983, a day after the murders. Cooper showed up in Ensenada Mexico on June 9, 1983, where he hitched a ride aboard a boat with an unsuspecting husband and wife, Owen and Angelica Handy. The Handys were planning to sail to Costa Rica. An unexpected storm forced the Handys to sail north up the California coast to Pelican Bay near Santa Barbara. Cooper allegedly raped a woman there (never prosecuted), and was captured by the Coast Guard after he dove off the boat, swam to a dinghy and started to row for shore.

Cooper testified in his own defense and admitted being in the Lease house after his escape from prison. He denied ever being in the Ryen home. He claimed he simply walked down the hill from the Lease house on the evening of June 4, 1983, and hitchhiked out of the area, eventually making his way to Mexico where he met the Handys.

In the penalty phase, evidence was introduced about Cooper’s kidnap and rape of a high school student in Pennsylvania who interrupted Cooper burglarizing a home. Cooper also had been convicted of two counts of burglary in Los Angeles County. Cooper presented the testimony of friends and relatives regarding his good qualities and their love for him.

Recently concluded post-conviction DNA testing Cooper sought to prove his innocence, proved the opposite. Cooper was the donor of the DNA from a spot of blood from the hallway inside the Ryen home which placed Cooper in the middle of the crime scene. Cooper was also the donor of DNA from two cigarette butts recovered from the Ryen station wagon. Cooper’s DNA and Doug Ryen’s DNA were also present on a t-shirt with smears of blood.

As the description of the appellate process below attempts to show, a capital case nears completion when the federal courts have made a final ruling on the defendant's habeas corpus claims. Those cases that are still being reviewed by state courts are nowhere near conclusion.

Aside from the Sims case mentioned above, there are no other California capital cases pending final review before SCOTUS.

There are numerous California capital cases currently pending in the lower federal courts, however. As of November 2005, there were 170 cases pending in the federal district courts. Of those, at least 52 are "on hold" pending exhaustion of outstanding habeas claims in state court. These cases are at different stages in the process, and, as is more fully explained below, the stage a particular case is at determines how imminent a final judgment may be out of the federal courts. Some have also asked for the status reports on certain "high profile" capital cases, many of which are still awaiting action by the CSC. Here are a few examples:

Richard Allen Davis (#S056425) - he was convicted and sentenced to death on September 26, 1996, but he was not appointed an appellate attorney until June 13, 2001. Four years later (July 11, 2005), Davis' attorney filed his opening brief with the CSC. The Attorney General's response is due no later than May 15, 2006.

Richard Allen Davis kidnapped twelve-year-old Polly Klaas from her own bedroom, strangled her to death, and left her under a piece of plywood in the brush in a deserted area, where her decomposed body was discovered two months later. Forensic evidence revealed that Davis sexually assaulted Polly. Davis was on parole for two felony assaults on women when he committed this crime, and had a history of kidnap and violent conduct. Davis was convicted of kidnapping, robbery, burglary, assault with a deadly weapon, false imprisonment, attempted lewd and lascivious acts on a child under 14 years of age, first degree murder with special circumstances.

Ramon Salcido (#S018814) - he was convicted and sentenced to death on December 17, 1990, but his opening brief with the CSC was not filed until eight years later (June 18, 1998). The case has been fully briefed before the CSC since May 26, 2000, but the court has not scheduled oral argument as yet.

On April 13, 1989, Ramon Salcido went on a homicidal spree in Sonoma County. He murdered seven victims in all, including his wife, two of his children, three in-laws, and a co-worker. One daughter, age three, remarkably survived, despite Salcido's infliction of a severe laceration to her throat. Salcido also attempted to murder another co-worker and his wife. After his crime, Salcido fled to Mexico, where he was apprehended by Mexican officials, who expelled him and delivered him to US custody for trial. The case was tried in San Mateo County on change of venue in 1990.

Richard Ramirez (#S012944) - he was convicted and sentenced to death on November 7, 1989, but his opening brief was not filed until 13 years later (March 1, 2002). The case has been fully briefed before the CSC since December 31, 2003, but the court has not scheduled oral argument.

During a string of 15 incidents committed in Los Angeles County between June 1984 and August 1985, Richard Ramirez brutally murdered, sexually assaulted, or attempted to murder 23 people. Twelve of the incidents occurred between May 29 and August 8, 1985. These so-called "Nightstalker" crimes typically involved night-time attacks on unsuspecting persons in their homes. He typically shot and killed the adult male occupants of the homes he entered and restrained eight of his female victims with handcuffs or thumbcuffs he brought to the scene. The murders and attempted murders of his female victims were often particularly brutal. He savagely cut the throats of five victims and committed other acts of mutilation. During several of the incidents, Ramirez ate the victims' food or drank soda or juice.

## **Death Penalty Litigation Process in California**

What follows is an extremely abbreviated summary of the capital appeals process. A more detailed description can be found at the Attorney General's website:

<http://caag.state.ca.us/piu/pdf/deathpen.pdf>.

**The Trial.** The first step in all capital cases is the trial. In order to be death-eligible, a defendant must have committed first-degree murder with at least one special circumstance. Unless the defendant can afford to hire his own attorney, the court usually appoints two attorneys to represent him during the trial.

The prosecution is broken into two parts - a guilt phase and a penalty phase. First, the prosecutor must prove beyond a reasonable doubt that the defendant committed first-degree murder and that the alleged special circumstance(s) is true. Second, the jury must determine whether the defendant should be sentenced to life in prison without possibility of parole or death. If a unanimous jury imposes a sentence of death, the following appeals process begins.

### **The Direct Appeal**

**California Supreme Court.** Every capital sentence is automatically appealed to the California Supreme Court ("CSC"). This is commonly referred to as the "direct appeal." Even if the defendant does not request or desire an appeal, the law requires that the CSC consider this direct appeal. Due to factors such as certification of the trial record and appointment of a new attorney to represent the defendant on the direct appeal, a final ruling out of the CSC is generally issued several years after the date of conviction.

**SCOTUS.** If the CSC affirms the sentence of death, the defendant can seek review in SCOTUS. If SCOTUS declines to hear the case, this process usually is completed within one year and it represents the conclusion of the defendant's direct appeal.

### **State Habeas Corpus Proceedings**

**California Supreme Court.** In addition to the direct appeal, a defendant may also file a habeas corpus petition with the CSC. Habeas corpus is essentially an additional avenue of appeal for defendants. It differs from the direct appeal in that it allows the defendant to raise claims based on facts outside the trial record, such as ineffective assistance of counsel.

Often, the CSC appoints a new attorney to represent the defendant on his habeas claims. (In other words, a defendant will often be represented by as many as four different attorneys during the state process - two attorneys for the trial, one attorney for the direct appeal, and one attorney for state habeas corpus proceedings.)

If the CSC believes that a hearing is necessary to resolve the defendant's claims, it will order a lower court to conduct an evidentiary hearing. After an evidentiary hearing, the lower court will present its findings to the CSC for a final determination on the defendant's claims.

It is not unusual for a capital defendant to file multiple habeas corpus petitions with the CSC. For instance, Stanley "Tookie" Williams filed five separate habeas corpus petitions with the CSC between 1989 and 2005.

If the CSC denies habeas relief to the defendant, he can appeal to SCOTUS for its review.

### **Federal Habeas Corpus Proceedings**

Federal District Court. After a capital defendant has exhausted all of his options for state habeas relief, he may file a habeas corpus petition in federal court seeking relief for alleged violations of his federal constitutional rights. The defendant's habeas petition is filed in one of the four federal district court districts in California.

It is not unusual for yet another new attorney to be appointed by the federal courts. (In other words, a defendant will often be represented by as many as five different attorneys during the state and federal process.)

In addition to legal briefs presented on the matter, the district court may order that evidentiary hearings be conducted to explore the defendant's claims.

If the defendant raises claims that were not previously presented to the CSC, the federal district court may put its proceedings on hold and require the defendant to first present those claims in a new habeas petition filed with the CSC. If so, the process described for state habeas proceedings above is followed.

There are no deadlines for the district court to act upon these habeas petitions, and final resolution of such petitions can take years.

Ninth Circuit. Once the district court has taken final action on a habeas petition, the matter will be appealed to the Ninth Circuit Court of Appeals. That court often reviews cases in two phases, first by a three-judge panel and then by an 11-judge panel ("en banc").

Similar to the district court, there are no deadlines for the Ninth Circuit to act on these capital habeas corpus petitions. As a result, final resolution by the court can take years.

For example, Stanley "Tookie" Williams filed his first brief with the Ninth Circuit on January 12, 2000, and the court did not finally dispose of Williams' initial request for habeas relief until it denied rehearing en banc on February 2, 2005.

SCOTUS. After the Ninth Circuit takes final action on the defendant's federal habeas corpus claims, an appeal to SCOTUS is generally filed.

Setting an Execution Date. If SCOTUS denies relief to the defendant, it is now time for the prosecuting agency that obtained the original conviction to request an execution date. The prosecutor asks for a "public session" to be held in the county court where the conviction was obtained, and the trial judge sets an execution date that is no sooner than 30 days and no later than 60 days from the date of the public session.

Clemency Proceedings. Upon the setting of an execution date, the Governor establishes a schedule for receiving briefs and consideration of a clemency request from the defendant.

### **SECOND OR SUCCESSIVE APPEALS**

Although a capital defendant is entitled only one direct appeal, it is typical for the defendant to request permission to file more than one habeas corpus petition in the state and federal courts. The circumstances under which the courts will agree to consider and review such second or successive appeals are quite limited, however, in light of the exhaustive state and federal judicial review conducted previously.

Second/successive appeals are often filed during the so-called "11<sup>th</sup> hour" of capital proceedings after an execution date has been set and while the Governor is considering clemency. For example, Stanley "Tookie" Williams filed second/successive habeas petitions during the weekend before his execution.

## **California Department of Corrections and Rehabilitation History of Capital Punishment in California**

Last Modified: 7/20/2005 (URL)

### **History**

Legal executions in California were authorized under the Criminal Practices Act of 1851. On February 14, 1872, capital punishment was incorporated into the Penal Code, stating:

A judgment of death must be executed within the walls or yard of a jail, or some convenient private place in the county. The Sheriff of the county must be present at the execution, and must invite the presence of a physician, the District Attorney of the county, and at least twelve reputable citizens, to be selected by him; and he shall at the request of the defendant, permit such ministers of the gospel, not exceeding two, as the defendant may name, and any persons, relatives or friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. But no other persons than those mentioned in this section can be present at the execution, nor can any person under age be allowed to witness the same.

The various counties may have some records of the executions conducted under the jurisdiction of the counties, but the department knows of no compilation of these.

### **State Executions**

Capital punishment on a county level continued until an amendment by the Legislature in 1891 provided:

A judgment of death must be executed within the walls of one of the State Prisons designated by the Court by which judgment is rendered.

In this statute, the warden replaced the sheriff as the person who must be present at the execution and invitation to the attorney general, rather than to the district attorney, was required.

Executions were conducted at both of the California state prisons then existing—San Quentin and Folsom. There apparently was no official rule by which judges ordered men hanged at Folsom rather than San Quentin or vice versa. However, it was customary to send recidivists to Folsom.

The first state-conducted execution was held March 3, 1893 at San Quentin. The first execution at Folsom was December 13, 1895.

### **Lethal Gas**

In 1937, the Legislature provided that lethal gas replace hanging, with August 27, 1937 as the effective date. The law did not affect the execution method for those already sentenced. As a result, the last execution by hanging at Folsom was conducted December 3, 1937. The last execution by hanging at San Quentin was held May 1, 1942; the defendant had been convicted of murder in 1936.

A total of 215 inmates were hanged at San Quentin and a total of 92 were hanged at Folsom.

The only lethal gas chamber in the state was constructed at San Quentin. The first execution by lethal gas was conducted December 2, 1938. From that date through 1967 a total of 194 persons were executed by gas, all at San Quentin. This total includes four (4) women.

### **Legal Challenges and Changes**

For 25 years after 1967, there were no executions in California due to various State and United States Supreme Court decisions.

In 1972 the California Supreme Court found that the death penalty constituted cruel and unusual punishment under the state constitution. As a result, 107 individuals had their sentences changed to other than death. In November 1972, nine months after the decision, the California electorate amended the state constitution and overruled the State Supreme Court.

In 1973 the United States Supreme Court held that the death penalty was unconstitutional as it was being administered at that time in a number of states.

California legislation was passed in 1973 which made the death penalty mandatory in certain cases under certain conditions. Among these were kidnapping if the victim dies, train wrecking if any person dies, assault by a life prisoner if the victim dies within a year, treason against the state, and first degree murder under specific conditions (for hire, of a peace officer, of a witness to prevent testimony, if committed during a robbery or burglary, if committed during course of a rape by force, if committed during performance of lewd and lascivious acts upon children, by persons previously convicted of murder).

In late 1976, the California Supreme Court, basing its decision on a United States Supreme Court ruling earlier that year, held that the California death penalty statute was unconstitutional under the Federal Constitution because it did not allow the defendant to present any evidence in mitigation. Following this ruling, 70 inmates had their sentences changed to other than death.

### **Capital Punishment Reinstated**

The California State Legislature re-enacted the death penalty statute in 1977. Under the new statute, evidence in mitigation was permitted.

The death penalty was reinstated as a possible punishment for first degree murder under certain conditions. These "special circumstances" include: murder for financial gain, murder by a person previously convicted of murder, murder of multiple victims, murder with torture, murder of a peace officer, murder of a witness to prevent testimony and several other murders under particular circumstances.

In 1977, the Penal Code also was revised to include the sentence of life imprisonment without the possibility of parole. At that time, the punishment for kidnapping for ransom, extortion, or robbery was changed from death to life without parole. Treason, train derailing or wrecking, and securing the death of an innocent person through perjury became punishable by death **or** life imprisonment without parole.

Proposition 7, on the California ballot in November 1978, superseded the 1977 statutes and is the death penalty statute under which California currently operates.

Under state law, cases in which the death penalty has been decreed are automatically reviewed by the State Supreme Court. The Supreme Court may:

- Affirm the conviction and the death sentence;
- Affirm the conviction but reverse the death sentence (which results in a retrial of the penalty phase only); or
- Reverse the conviction (which results in a complete new trial).

Even if the California Supreme Court affirms the death sentence, the inmate can initiate appeals on separate constitutional issues. Called "writs of habeas corpus," these appeals may be heard in both state and federal courts.

Although the death penalty was reinstated in 1978, no executions were carried out in California until April 1992 when Robert Alton Harris was put to death in the San Quentin gas chamber. This was the first execution in more than 25 years.

### **Lethal Injection**

In January 1993, a new law went into effect allowing inmates to choose lethal injection or lethal gas as the method of execution. In August 1993, condemned inmate David Mason was executed after voluntarily waiving his federal appeals. Because Mason did not choose a method of execution, he was put to death by lethal gas, as the law then stipulated.

In October 1994, a U.S. District Judge, Northern District (San Francisco) ruled that the gas chamber was cruel and unusual punishment, barring the state from using that method of execution. That ruling was upheld by the U.S. Ninth Circuit Court of Appeals in February, 1996.

That same year, the Penal Code was modified to state that if either manner of execution is held invalid, the punishment of death shall be imposed by the alternative means. The law further stipulated that lethal injection become the "default" method of execution should an inmate fail to choose. Serial killer William Bonin was executed on February 23, 1996 by lethal injection, the first California execution using that method.

### **Execution Costs**

The cost of carrying out an execution in California is difficult to assess. The average cost to house an inmate is about \$30,929 per year. Staff assigned to the execution team receive their regular, budgeted salaries. The cost of the execution procedure, including the chemicals utilized, is minimal.

The real cost involved in the capital punishment procedure is related to the court reviews, both those mandated by the Legislature as well as the appeal procedures initiated by the convicted inmate's legal staff. These costs vary depending upon the resources of the convicted inmate and the length of the court procedures involved.

### **Inmates on Condemned Status**

All male prisoners on condemned status are housed at a maximum security custody level in three units at San Quentin State Prison. Females are housed in a maximum security unit at the Central California Women's Facility at Chowchilla. The number of condemned inmates has increased steadily since 1978.

## **Lethal Injections Procedures**

Last Modified: 7/20/2005 (URL)

### **When Execution Order Is Received**

As soon as the execution order is received, the condemned inmate is moved into a special security area of the prison. Based on hourly checks, staff document his/her behavior and bring anything unusual to the warden's attention.

The inmate receives priority visiting privileges; no visitors are turned away without authorization of the warden. Every effort is made to accommodate visits by the inmate's attorney including weekend or holiday visits if necessary.

### **Pre-Execution Reports**

Two reports are prepared within three weeks of the established execution date. The first is 20 days before execution; the second is seven days before execution. Each report includes:

- Psychiatric report - Results and interpretation of examinations, interviews and history of the inmate by three psychiatrists which will be used to determine the inmate's sanity.
- Chaplain report - Comments on the inmate's spiritual and emotional well-being.
- Summary of behavior - Observations noted by case worker and custody staff.
- Cover letter from warden - Includes firsthand information from interviews, observations or communication with the inmate and his/her family or friends.

The seven day pre-execution report discusses any changes that have occurred since the first report.

### **Sanity Review Requests**

Within 30 to seven days before the execution, the inmate's attorney may submit current psychiatric information that may have a bearing on the sanity of the condemned inmate. This information will be provided to the panel of psychiatrists to consider in completion of the pre-execution psychiatric reports.

## **Last 24 Hours**

During the day before the execution, the warden will make special arrangements for visits by approved family members, spiritual advisors, and friends.

About 6 p.m. the day before the execution, the inmate will be moved to the death watch cell which is adjacent to the execution chamber. From then on, a three-member staff unit will provide a constant death watch.

Soon after he is rehoused, the inmate will be served his last dinner meal. The prison makes every effort to provide the meal requested by the inmate.

Between 7 and 10 p.m., the inmate may be visited by the assigned state chaplain and the warden. The inmate may read, watch television, or play the radio. He can request special food items and coffee or soft drinks.

The family, spiritual advisors and friends the inmate has selected as witnesses may arrive up to two hours before the scheduled execution.

About 30 minutes before the scheduled execution, the inmate is given a new pair of denim trousers and blue work shirt to wear. He is escorted into the execution chamber a few minutes before the appointed time and is strapped onto a table. [The chairs previously used for lethal gas executions have been removed.]

The inmate is connected to a cardiac monitor which is connected to a printer outside the execution chamber. An IV is started in two usable veins and a flow of normal saline solution is administered at a slow rate. [One line is held in reserve in case of a blockage or malfunction in the other.] The door is closed. The warden issues the execution order.

## **The Execution**

- 5.0 grams of sodium pentothal in 20-25 cc of diluent
- 50 cc of pancuronium bromide
- 50 cc of potassium chloride

Each chemical is lethal in the amounts administered.

At the warden's signal, sodium pentothal is administered, then the line is flushed with sterile normal saline solution. This is followed by pancuronium bromide, a saline flush, and finally, potassium chloride. As required by the California Penal Code, a physician is present to declare when death occurs.

After all witnesses have left, the body is removed with dignity and care. Typically, the family claims the body. If not, the State makes the arrangements.

### **Chamber Description**

The California execution chamber is a self-contained unit at San Quentin State Prison which includes:

- Witness area——Entered via a door to the outside, the witness area has a view of the chamber through five windows.
- Execution chamber——An octagonal vacuum chamber, approximately 7-1/2 feet in diameter. It is entered through a large oval door at the rear of the chamber.
- Anteroom——Contains three telephones. One is kept open for use by the Governor; the other is for use by the State Supreme Court and Attorney General's Office; the third is connected to the Warden's office. The lethal injections are administered from the anteroom. The area also includes the valves and immersion lever used for executions by lethal gas.
- Chemical room——Includes storage cabinets and a work bench, plus the chemical mixing pots, pipes and valves used for executions by lethal gas.
- Two holding cells——Each contains a toilet and room for a mattress.
- Kitchen/officers' area——Includes a sink, cabinet, counter area and resting area for staff.

## **Witnesses**

Up to 50 individuals may witness an execution. The following are specified in the Penal Code:

Warden\* 1

Attorney General 1

Reputable citizens 12

Physicians\* 2

Inmate family/friends 5 (if requested)

Inmate spiritual advisor 2 (if requested)

State procedures also allow for:

News media representatives 17

State-selected witnesses 9

Staff escorts 4

**CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**  
**DIVISION OF ADULT OPERATIONS**  
 Death Row Tracking System  
 Condemned Inmate Summary List

Printed Date: 10/20/2005

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The following is a statistical summary of inmates sentenced to death in California

Ethnicity

<u>Ethnic/Race</u>	<u>Total Count</u>	<u>Percent</u>	<u>Total Males</u>	<u>Percent</u>	<u>Total Females</u>	<u>Percent</u>
White	256	39.57	250	38.64	6	0.93
Black	229	35.39	227	35.09	2	0.31
Hispanic	123	19.01	117	18.08	6	0.93
Other	39	6.03	39	6.03	0	0.00



**Terri - Age 15**

~ MY GARDEN ~

At times I go to the garden of my heart  
and pluck a rose of memory,  
The thorns are sharp, and often pierce  
to the point of pain,  
But the beautiful fragrance of the rose  
makes it all worthwhile.

The dewdrops that appear are only tears  
from an aching, broken heart.

Then I leave my garden  
and lock the gate ... for awhile,  
Til the scent of roses draws me back,  
once more ... to endure the bittersweet  
pain ... of memory!

To my little rosebud, Terri Lynn  
from her Mom

Barbara Christian