

MICHAEL KROLL

MICHAEL KROLL is a writer and investigator specializing in the criminal justice system. Born in 1943 and raised in rural California, Kroll graduated in 1965 from the University of California at Berkeley with a BA in political science. For more than two decades he has been a journalist and editor with the Pacific News Service, writing about juvenile justice, capital punishment, and prisons. His articles have appeared in periodicals such as the *Los Angeles Times*, the *New York Times*, *California Lawyer*, and *The Progressive*, and he has been a guest on talk shows. With a special interest in capital punishment, Kroll also founded the Death Penalty Information Center in Washington, DC, and he conducts investigations on behalf of prisoners who are condemned to death.

The Unquiet Death of Robert Harris

Kroll met Robert Alton Harris in 1984, when Harris was awaiting execution for the 1978 murders of two teenagers. The two men became friends, giving Kroll a uniquely personal view of Harris's long journey to the gas chamber and to death on April 21, 1992. In this narrative of the journey's end, published in *The Nation* a few months afterward, Kroll makes an argument against what he witnessed. Contrast this essay with the previous one, H. L. Mencken's "The Penalty of Death."

"Ladies and gentlemen. Please stay in your places until your escort comes for you. Follow your escort, as instructed. Thank you." 1

The words were spoken in the manner of the operator of the Jungle Cruise at Disneyland: well-rehearsed and "professional." They were spoken by the public information officer of California's San Quentin penitentiary, Vernell Crittendon, as we waited to be ushered out of the gas chamber where my friend Robert Harris was slumped over, dead, in Chair B. 2

When not conveying us to and from the gas chamber, our "escorts" guarded us in a small, tidy office with barred windows facing the east gate, where a circus of media lights lit up the night sky, letting us see silhouettes in the darkness. There were two desks, the exact number of straight-backed chairs needed to accommodate us, some nineteen-cent bags of potato chips, a couple of apples and bananas, and bad coffee. 3

We—a psychologist and lawyer who knew Robert Harris professionally, his brother Randy, whom he had designated to witness the gassing, and I, a close friend for nearly a decade—had entered at the west gate at 10 PM as instructed to present our credentials (a written invitation from Warden Daniel Vasquez himself) and submit to a thorough pat-down search and a metal 4

detector. Our escorts took us in a prison van to the front of the old fortress and escorted us up a few steps into the office of one G. Mosqueda, program administrator. Then we began what we thought at the time would be a short vigil. It turned out to be eight hours.

We'd been there only a few minutes when another staff person arrived wearing a civilian suit and a name tag that identified him as Martinez. He walked up to Randy, pointed his finger, and said, "Randall Harris. Come with me!" Randy smiled, got up, and followed him out. (Randy thought they were taking him for counseling. It was a fair assumption; counselors had been provided to advise members of the victims' families who had come to witness the execution. This was to insure, Warden Vasquez told them, that "there is only one casualty in that room.")

When they brought him back, he told his own horror story. He had been ordered to submit to a full body-cavity search. "We have learned from a reliable source that you are planning something," Martinez had said. Randy was ordered to open his mouth for inspection, take his clothes off, bend over, lift his testicles, pull back his foreskin. "If you try anything," Martinez had threatened, "you'll be sorry, and so will your brother."

His brother was waiting just a few feet from the gas chamber.

After Randy rejoined us, shaken and humiliated, our escort gave us our marching orders. "When the phone rings and I get the order to go, stand and follow me quickly." The phone, which had the kind of clanging ring that scares you to death even when you are not already scared to death, rang many times that night, and each time our hearts stopped. But *the* call did not come at midnight. It did not come for a long time. With no television to inform us, we waited, hour after hour, wondering what was happening, drinking bad coffee and asking to be escorted to the bathroom.

Later, we learned that in those hours the US Court of Appeals for the Ninth Circuit had granted three stays of execution. One concerned newly discovered evidence that Robert's brother Danny, who had participated in the crime but served fewer than four years in exchange for his testimony against Robert, had actually fired the first shot. The two other stays—including one signed by ten judges—were based on the pending suit challenging the constitutionality of cyanide gas as a method of execution. Each of the three stays was dissolved by the US Supreme Court.

Finally, a little after three o'clock, the call came and Mendez said, "Now."

We followed him into the freezing, brilliant night, but Mendez stopped us just short of the entrance to the gas chamber. Shivering, we watched the other witnesses being led out of the cold—the media into one building opposite the gas chamber and the victims' family members into the East Block visiting room just beyond it. After a while, responding to words coming over his

walkie-talkie that I could not hear, Mendez led us into the main visiting room to our immediate right. I had been in this room many times, but never at night, and never, as now, was it deserted of staff and inmates.

Finally the wait was over. Mendez spoke into his walkie-talkie. "Okay," he said, and then turned his attention to us. "Let's go." 12

We, the family and friends of the condemned, were led to risers along a wall behind and to the left of the chamber. Three burly guards brought Robert in and strapped him quickly to Chair B. His back was to us. He could see us only by craning his neck and peering over his left shoulder. From behind him, I looked over his right shoulder into the unblinking red eye of the video camera that was trained on his face in order to assist US District Judge Marilyn Patel in determining whether death by lethal gas is cruel and unusual punishment. He peered around the room, making eye contact, smiling and nodding at people he knew. I held my breath. A guard's digital watch started beeping. She smiled sheepishly and covered it with her sleeve. 13

Minutes passed. Some people whispered. Some smiled. And then the phone rang. The phone to the gas chamber rings for only one reason: A stay of execution has been granted. But nothing happened. Nobody moved—nobody except Robert, that is, who twisted and turned trying to figure out what was happening. He peered down between his legs to see if he could see the vat of acid beneath him. He sniffed the air and mouthed the words, "Pull it." More minutes passed. He peered over his left shoulder where I was just out his line of vision. "Where's Mike?" he mouthed. 14

I jumped down to the lower riser and walked over to the window. A female guard ordered me back to my place, but not before Robert saw me, smiled, and settled down. 15

Ten minutes after the phone rang, the gas chamber door was opened and the three guards unfastened Robert and took him from the chamber. Nothing like that had ever happened in the history of the gas chamber. (I later learned that during that eternity, California's attorney general, Dan Lungren, had been on the phone to the clerk of the US Supreme Court informing him that Robert was in the chamber. Lungren begged the justices to overturn the stay. But the court wanted to read what circuit court Judge Harry Pregerson had written in the fourth and last stay of execution, so Lungren was told to take Robert from the chamber.) 16

We were escorted back to Mosqueda's office to continue waiting. I shook uncontrollably for a long time, and cried openly. My escort suggested I needed medical attention, hinting I might have to leave. I forced back my tears and pulled myself together, although I could not stop trembling. 17

We resumed the grim vigil, cut off from the outside world. Just after six in the morning, I saw the witnesses from the victims' families being led past our 18

window toward the chamber. Some were laughing. As honored guests, they had been playing video games, napping in the warden's home, and eating specially prepared food. My heart stopped. Something was happening. Karen, the lawyer with us, called the office where lawyers who supported Harris had gathered, and was told the stay of execution was still in place. But, as with the aborted execution attempt, they were the last to know.

Within fifteen seconds, the phone clattered to life, and Mendez told us the stay had been dissolved. (He did not tell us the Supreme Court had ordered all federal courts to enter no more stays of execution regardless of the issues.) We were going again. 19

Quickly we moved through the chill dawn air toward the chamber. Randy whispered in my ear, "Slow down." Near the entrance, Vernell Crittendon stood watching the procession move smoothly into the chamber. He pumped his upturned fist three times, the way football players do when their team has scored. 20

When they brought Robert in, he was grim-faced, tired and ashen. Beyond the horror of having stood at the brink of the abyss just two and a half hours before, he had been up for several days and nights. He was under horrific pressure. Again, he nodded to acquaintances. He did not smile. He faced to his right and said "I'm sorry" to the father of murder victim Michael Baker. He craned his neck left once more and nodded quickly toward us. "It's all right," he reassured us. After about two minutes, he sniffed the air, then breathed deeply several times. 21

His head began to roll and his eyes closed, then opened again. His head dropped, then came up with an abrupt jerk, and rolled some more. It was grotesque and hideous, and I looked away. When I looked back, his head came up again, and I covered my mouth. Randy was whimpering in pain next to me, and we clutched each other. The lawyer, sobbing audibly, put her arms around us and tried to comfort us. I could not stop shivering. Reverend Harris, Robert's second cousin and spiritual adviser, who had been with Robert in the holding cell almost until the moment they took him away, whispered, "He's ready. He was tired. It's all right. His punishment is over." 22

He writhed for seven minutes, his head falling on his chest, saliva drooling from his open mouth. He lifted his head again and again. Seven minutes. A lifetime. Nine more minutes passed with his head slumped on his chest. His heart, a survivor's heart, had kept pumping for nine more minutes, while we held each other. Some of the witnesses laughed. I thought of the label "Laughing Killer," affixed to Robert by the media, and knew these good people would never be described as laughing killers. 23

We were in the middle of something indescribably ugly. Not just the cold-blooded killing of a human being, and not even the fact that we happened to 24

love him—but the ritual of it, the participation of us, the witnesses, the witnessing itself of this most private and personal act. It was nakedly barbaric. Nobody could say this had anything to do with justice, I thought. Yet this medieval torture chamber is what a large majority of my fellow Californians, including most in the room with me, believe in. The implications of this filled me with fear—fear for myself and for all of us, a fear I am ashamed to confess—while my friend was being strangled slowly to death in front of me.

Some witnesses began shuffling nervously. People looked at their watches. Then a guard stepped forward and announced that Robert Alton Harris, CDC Prisoner B-66883, had expired in the gas chamber at 6:21 AM, sixteen minutes after the cyanide had been gently lowered into the sulfuric acid.

It was the moment Crittendon had been waiting for. He stepped into the middle of the quiet room, his Jheri-Kurls reflecting the eerie green light from the gas chamber where my friend lay dead, slumped forward against the straps in Chair B.

“Ladies and gentlemen. Please stay in your places until your escort comes for you. Follow your escort, as instructed. Thank you.”

Our guard came and we followed him out. The eighteen media witnesses, who had stood against the wall opposite us scribbling on paper provided by the prison, preceded us out of the room. As they had been for weeks, they were desperate for a Harris family member to say something to them. “Is this a Harris? Is this a Harris?” a reporter standing just outside the door shouted, pointing at each of us as we emerged into the first light of morning over San Francisco Bay.

My god, it was a beautiful day.

Journal Writing

Kroll calls the execution of Harris “indescribably ugly” and “nakedly barbaric” (par. 24). How do you respond to this characterization of capital punishment? In your journal, write down as many reasons both for and against capital punishment as you can think of. The reasons may be moral, emotional, or purely pragmatic. Write down whatever comes to mind. (To take your journal writing further, see “From Journal to Essay” on the facing page.)

Questions on Meaning

1. Is Kroll’s PURPOSE merely to serve as a witness to his friend’s execution, or is there an unstated proposal in the essay? If so, what is it?

2. Why did the execution take so long? What was taking place behind the scenes?
3. What can you *INFER* about Kroll's opinion of the Supreme Court's decision to dissolve all three of the Court of Appeals' stays of execution (par. 9)? How does he indirectly make this opinion known?
4. How do you read the last sentence of the essay? Is it merely *IRONIC*?
5. Do you think Kroll is against the death penalty, or merely against the way it was carried out in this case?

Questions on Writing Strategy

1. At what three points does Kroll pause in the story of the execution? What does he accomplish each time?
2. What is the *TONE* of the essay? How does it contribute to Kroll's *ETHICAL APPEAL* (see p. 503)?
3. Is Kroll's approach generally based on a *RATIONAL* or an *EMOTIONAL APPEAL* (see pp. 502–03)?
4. What is the *EFFECT* of Kroll's *DESCRIPTION* of the victims' families in paragraphs 18 and 23? How does Kroll's *POINT OF VIEW* shape this description?
5. Why does Kroll describe Harris's death in such detail (pars. 22–23)?
6. **OTHER METHODS.** This essay is an example of *NARRATION* being used in the service of an argument. What advantage does Kroll gain by presenting his argument in the form of a personal account?

Questions on Language

1. Make sure you know the meanings of the following words: silhouettes (par. 3); vigil (4); stays (9); burly (13); ashen, abyss (21); grotesque (22); barbaric (24).
2. What is Kroll's objection to Vernell Crittendon's tone (pars. 1–2)? What do you make of his job title: "public information officer"?
3. What is the tone of the phrase "a written invitation from Warden Daniel Vasquez himself" (par. 4)?
4. How does Kroll's use of reported speech contribute to his portrait of the prison officials?

Suggestions for Writing

1. **FROM JOURNAL TO ESSAY.** Write an essay in which you argue either for or against the death penalty. Support your argument with the *EVIDENCE* in favor of your position that you developed in your journal writing (facing page). As for the evidence that contradicts your opinion, use it to try to anticipate, and respond to, readers' likely objections to your view.
2. What is your opinion on televising public executions? How would a televised account of an execution differ from the kind of written narrative Kroll provides? What are the advantages of each method of narration, visual and written?
3. **CRITICAL WRITING.** Kroll's *THESIS* about the barbarity of staging executions as public spectacle comes nearly at the end of the essay (par. 24), yet he hints