

Capital punishment in California

Capital punishment is a legal form of punishment in the U.S. state of **California**. The first recorded execution in the area that is now California was on 11 April 1878 when four Native Americans were shot in San Diego County for conspiracy to commit murder. These were the first of 709 executions before the California Supreme Court decision in *People v. Anderson* finding the death penalty to violate the state constitution, and the later *Furman v. Georgia* decision of the United States Supreme Court finding executions in general as practiced to violate the United States Constitution, both issued in 1972. Since 1976, when the U.S. Supreme Court reinstated the death penalty with *Gregg v. Georgia*, 13 people have been executed by the state. As of 21 July 2010 there are 690 people, including 15 women, on California's "death row."^[1]



Executions in California were carried out in the gas chamber at San Quentin State Prison. It was modified for the use of lethal injection, but has been returned to its original designated purpose, with the creation of a new chamber specifically for lethal injection.

History

Four methods have been used historically for executions. Up until just before California was admitted into the Union, executions were carried by firing squad. Then in 1849, hanging was adopted as the method of choice.

The penal code was modified on 14 February 1872 to state that hangings were to take place inside the confines of the county jail or other private places. The only people allowed to be present were the sheriff of the county, a physician, the District Attorney of the county, who would select at least 12 "reputable citizens". No more than two "ministers of the gospel" and no more than five people selected by the condemned could also be present.

Executions were moved to the state level in 1889 when the law was modified so that hangings would take place in one of the State Prisons — San Quentin State Prison and Folsom State Prison. According to the California Department of Corrections, although there was no law providing which prison was chosen by the trial judge, it was customary for recidivists to be sent to Folsom. Under these new laws, the first execution at San Quentin was Jose Gabriel on 3 March 1893 for murder. The first hanging at Folsom was Han Chin also for murder on 13 December 1895. A total of 215 inmates were hanged at San Quentin and a total of 92 were hanged at Folsom.



San Quentin State Prison, the location of the death row for the execution of male inmates.

Introduction of the gas chamber

California adopted the gas chamber as its sole method in 1937 (though two more hangings took place for people already sentenced). The first people to die in the San Quentin gas chamber (the only one in the state) were Albert Kessel and Robert Cannon on 2 December 1938. Three more people had their death sentences carried out within two weeks. Up until 1967, 194 people were executed by lethal gas, including four women. The last person was Aaron Mitchell on 12 April 1967.



Central California Women's Facility, the location of the death row for female inmates.

1972 suspension of capital punishment

On April 24, 1972, the Supreme Court of California ruled in *People v. Anderson* that the current death penalty laws were unconstitutional and oversaw the commuting of 107 death sentences in the state in 1972. This included such people as Sirhan Sirhan and Charles Manson. Following the ruling, the California Constitution was quickly modified to reinstate capital punishment, under an initiative called Proposition 17. The statute was also modified to make the death penalty mandatory for a number of crimes including first degree murder in specific instances, kidnapping where a person dies, train wrecking where a person dies, treason against the state, and assault by a life prisoner if the victim dies within a year. However, the U.S. Supreme Court declared capital punishment unconstitutional in *Furman v. Georgia* on June 29, 1972.

On July 2, 1976, the U.S. Supreme Court reversed itself in *Gregg v. Georgia*, reaffirming the use of capital punishment in the United States. In a later decision in 1976, the Supreme Court of California again held the death penalty statute was unconstitutional as it did not allow the defendant to enter mitigating evidence. A further 70 prisoners had their sentences commuted following this. The next year, the statute was modified to deal with these issues. Life imprisonment without possibility of parole was also added as a punishment for capital offenses. A later change to the statute was in 1978 after Proposition 7 passed. This gave an automatic appeal to the Supreme Court of California, who would directly affirm or reverse the sentence and conviction without going through an intermediate appeal to the California Courts of Appeal. (The state supreme court is currently sponsoring a proposed state constitutional amendment that would allow the assignment of capital appeals to the Courts of Appeal to alleviate the backlog of capital appeal cases.)

Introduction of lethal injection

The latest change of method came in January 1993, when the lethal injection was given as a choice for people sentenced to death. David Mason chose to die of lethal gas, because he wanted to suffer for his crimes. This was changed in 1994 to have lethal injection as the default method. The first person executed under these new laws was William Bonin on 23 February 1996. 13 people have been executed since California reinstated the death penalty in 1977, but 56 others have died on death row of other causes, including 14 of suicide since October 25, 2007.^[2]

2006 moratorium of lethal injection



Fogel's ruling halted executions in California for nearly 5 years.

In February 2006, U.S. District Court Judge Jeremy D. Fogel blocked the execution of convicted murderer Michael Morales because of complaints about the administration of lethal injection in the gas chamber.^[3] It was argued that if the three-drug lethal injection procedure were administered incorrectly, it could lead to suffering for the condemned, potentially constituting cruel and unusual punishment. The issue arose from an injunction made by the U.S. 9th Circuit Court of Appeals which held that an execution could only be carried out by a medical technician legally authorized to administer IV medications. The case led to a de facto moratorium of capital punishment in California as the state was unable to obtain the services of a licensed medical professional to carry out the execution.^[4]

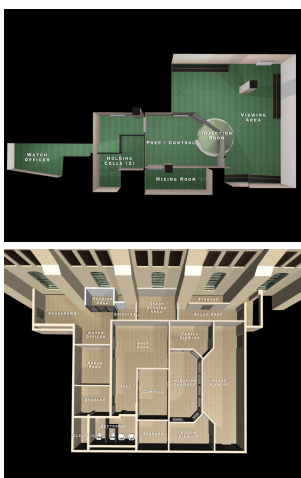
In 2008, Law officers and families of victims who support the death penalty rallied at the gate of San Quentin State Prison Tuesday to promote a new journal that details arguments in favor of capital punishment.^[5]

Several other victims' families testified to the California Commission on the Fair Administration of Justice in opposition to capital punishment, explaining that whilst they had suffered great losses, they did not view retribution as morally acceptable, and that the high cost of capital punishment was preventing the solving of cold cases.^[6]

But others who contest this argument says the greater cost of trials where the prosecution does seek the death penalty is offset by the savings from avoiding trial altogether in cases where the defendant pleads guilty to avoid the death penalty.^[7]

In October 2009, Governor Arnold Schwarzenegger reacted to a report from the Death Penalty Information Center which suggested that states like California waste \$137 million a year because of the long process taken by the death penalty : "Well first of all, as you know, this is something that the people have voted on, so it's not a decision that is just made here in this Capitol. Number two, I think that, you know, justice, it's worth the money no matter what budget crunch we are in. And so I think we're going to continue with that until the people have changed their mind here in California and want to, you know, get rid of the death penalty. So I think until that point we will continue. The key thing is to make it more efficient, to speed up the process and that, I think, is something that we are going to work on."^[8]

2010 execution proceedings



The old execution room at San Quentin State Prison (top), though still functional as a gas chamber, has been supplanted by new facilities designed specifically for lethal injection (bottom).

A Riverside County judge scheduled the execution of Albert Greenwood Brown for September 29, 2010 after a California court lifted an injunction against capital punishment with the certification of new procedures on August 29 of that year.^{[9] [10] [11]} Brown is the first inmate scheduled to be executed in a newly built facility at San Quentin State Prison.^[12] The prison's visitor center was converted in a \$853,000 renovation that is four times larger than the old gas chamber that led to the moratorium. Four individual phones were installed with individual red warning lights in the event of a call from the Governor of California, the California Attorney General, the warden, or the U.S. Supreme Court.^[3] The facility has been set up to utilize a protocol of a three-drug combination of sodium thiopental, pancuronium bromide and potassium chloride or a single injection of sodium thiopental in which the dose is increased from 3 to 5 grams to make it lethal by itself.^{[3] [13]} Brown was examined by the prison staff to check that his veins were healthy enough for the injection process.^[14] The premises have also been wired with speakers so that last words from the condemned inmate can be broadcast.^[15]

Judge Fogel, whose previous ruling had halted executions in California, directed Brown to select a method of execution, but Brown refused.^[16] In the absence of a decision, the prison would default to the three-drug protocol.^[11] Fogel stated that he would have considered a stay of execution if Brown selected a single injection and the prison refused to carry it out.^[17] The 9th Circuit Court of Appeals ordered Fogel to revisit the case because California law specified that the inmate should only choose between the gas chamber and lethal injection, not the drugs themselves.^[18] According to Lt. Sam Robinson of San Quentin State Prison, the gas chamber is still fully functional and available if required.^[3] Fogel admitted his previous offer to Brown was "ill-advised"^[19] and halted the execution to permit time to determine whether the new injection procedures addressed defense arguments of cruel and unusual punishment.^[20] The appeals court also noted that the prison's supply of sodium thiopental, a drug required for lethal injection, was expiring on October 1, 2010. California and other states were running short of the drug because the manufacturer Hospira was unable to meet demand until January 2011, at the earliest.^[21] State attorney general Jerry Brown (no relation) recommended halting any further executions until necessary supplies were secured.^[22]

Current legislation

Method

Prisoners sentenced to death are allowed to select lethal injection or asphyxiation.

Under the California Penal Code § 3604:

"The punishment of death shall be inflicted by the administration of a lethal gas or by an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death..."

Pursuant to subsection (b) of that Code section, if the prisoner does not make a decision on the method within 10 days after the warden's service upon the inmate of an execution warrant, then the default is given as lethal injection.

In October 1994, a United States federal judge ruled that the gas chamber was an unconstitutionally cruel and unusual punishment in *Fierro v. Gomez*, 865 F.Supp. 1387 (N.D. Cal. 1994), and this was upheld by the U.S. 9th Circuit Court of Appeals in February 1996, *Fierro v. Gomez*, 77 F.3d 301 (9th Cir. 1996). The Supreme Court of the United States never ruled on the case, however, as California amended its statute to provide lethal injection as the default method while the case was pending on appeal. The Supreme Court of the United States, however, did subsequently hold in *Stewart v. LaGrand*, 526 U.S. 115 (1999) that by selecting a particular method of execution an inmate waives his right to challenge that method's constitutionality. This means that lethal gas still theoretically remains an option in California should an inmate opt for it.

As in any other state, people who are under 18 at the time of commission of the capital crime^[23] or mentally retarded^[24] are constitutionally precluded from being executed.

Capital offenses

The penal code provides for possible capital punishment in:

- treason against the state of California, defined as levying war against the state, adhering to its enemies, or giving them aid and comfort.^[25]
- perjury causing execution of an innocent person^[26]
- first-degree murder with special circumstances^[27]
 - for financial gain (1)
 - the defendant had previously been convicted of first or second degree murder (2)
 - multiple murders (3)
 - committed using explosives (4) ; (6)
 - to avoid arrest or aiding in escaping custody (5)
 - the victim was an on-duty peace officer; federal law enforcement officer or agent; or firefighter (7) ; (8) ; (9)
 - the victim was a witness to a crime and the murder was committed to prevent them from testifying (10)
 - the victim was a prosecutor or assistant prosecutor; judge or former judge; elected or appointed official; juror; and the murder was in retaliation for the victim's official duties (11) ; (12) ; (13) ; (20)
 - the murder was "especially heinous, atrocious, or cruel, manifesting exceptional depravity" (14)
 - the murderer lay in wait for the victim (15)
 - the victim was intentionally killed because of their race, religion, nationality, or country of origin (a hate crime) (16)
 - the murder was committed during the commissioning of robbery; kidnapping; rape; sodomy; performance of a lewd or lascivious act upon the person of a child under the age of 14 years; oral copulation; burglary; arson; train wrecking; mayhem; rape by instrument; carjacking; torture; poisoning (17)
 - the murder was intentional and involved the infliction of torture (18)
 - poisoning (19)
 - the murder was committed by discharging a firearm from a motor vehicle (21)
 - the defendant is an active member of a criminal street gang and was to further the activities of the gang (22)
- train wrecking which leads to a person's death.^[28]

Public opinion

The Field Research Corporation found in February 2004 that when asked how they personally felt about capital punishment, 68% supported it and 31% opposed it (6% offered no opinion). This was a fall from 72% two years previous, and a rise from 63% in 2000. The 2004 poll was asked about the time that Kevin Cooper had his execution stayed hours before his scheduled death after 20 years on Death Row.

When asked if they thought the death penalty generally fair and free of error in California, 58% agreed and 32% disagreed (11% offered no opinion). When the results were broken down along ethnicity, of the people who identified themselves as African American, 57% disagreed that the death penalty was fair and free of error.

Executions after 1976

A total of 13 individuals convicted of murder have been executed by the state of California following the 1976 U.S. Supreme Court decision of *Gregg v. Georgia*. The first two executions were by gas chamber; all subsequent executions were by lethal injection.

	Executed person	Date of execution	Victims	Under Governor
1	Robert Alton Harris	21 April 1992	John Mayeski and Michael Baker.	Wilson
2	David Edwin Mason	24 August 1993	Joan Picard, Arthur Jennings, Boyd Johnson, Antionette Brown and Dorothy Land.	Wilson
3	William George Bonin	23 February 1996	Marcus Grabs, Donald Hyden, David Murillo, Dennis Frank Fox, Charles Miranda, James McCabe, Ronald Gatlin, Harry Todd Turner, Russell Rugh, Glenn Barker, Steven Wood, Darin Lee Kendrick, Lawrence Sharp and Steven Jay Wells.	Wilson
4	Keith Daniel Williams	31 May 1996	Lourdes Meza, Miguel Vargas and Salvador Vargas.	Wilson
5	Thomas Martin Thompson	14 July 1998	Ginger Fleischli.	Wilson
6	Jaturun Siripongs	9 February 1999	Packovan Wattanporn and Quach Nguyen.	Davis
7	Manuel Pina Babbitt	4 May 1999	Leah Schendel.	Davis
8	Darrell Keith Rich	15 March 2000	Annette Fay Edwards, Patricia Ann Moore, Linda Diane Slovik, and Annette Lynn Selix.	Davis
9	Robert Lee Massie ^[29] ^[30]	27 March 2001	Boris G. Naumoff.	Davis
10	Stephen Wayne Anderson	29 January 2002	Elizabeth Lyman.	Davis
11	Donald Jay Beardslee	19 January 2005	Stacey Benjamin and Patty Gedding.	Schwarzenegger
12	Stanley Tookie Williams	13 December 2005	Albert Owens, Yen-Yi Yang, Tsai-Shai Lin, and Yee-Chen Lin.	Schwarzenegger
13	Clarence Ray Allen	17 January 2006	Bryon Schletewitz, Josephine Rocha, and Douglas White.	Schwarzenegger

See also

- Capital punishment in the United States
- Crime in California

References

- [1] CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION DIVISION OF ADULT OPERATIONS Death Row Tracking System Condemned Inmate Summary List Printed Date: 08/13/2009 (http://www.cdcr.ca.gov/Reports_Research/docs/CondemnedInmateSummary.pdf)
- [2] Condemned Inmates Who Have Died Since 1977 (http://www.cdcr.ca.gov/Reports_Research/docs/CIWHD.pdf)
- [3] Williams, Carol J. (2010-09-22). "Clock is ticking on first execution at San Quentin's revamped death chamber" (<http://articles.latimes.com/2010/sep/22/local/la-me-lethal-injection-chamber-20100922>). *Los Angeles Times*. . Retrieved 2010-09-26.
- [4] Death Penalty Moratorium in California (<http://civilliberty.about.com/od/capitalpunishment/p/camoratorium.htm>)
- [5] Nancy Isles Nation (2008-09-16). "Death penalty boosters rally at San Quentin gate - Marin Independent Journal" (http://www.marinij.com/ci_10481236?source=most_viewed). Marinij.com. . Retrieved 2010-09-12.
- [6] Herron, André M. (April 20, 2008). "André M. Herron: The death penalty is not civilized" (http://www.californiacrimevictims.org/Publications/Aundre_Herron_Sac_Bee_4.20.08.pdf). Sacramento Bee. . Retrieved March 31, 2010.
- [7] STUDY: COST SAVINGS FROM REPEAL OF DEATH PENALTY MAY BE ELUSIVE (<http://www.cjlf.org/releases/09-05.htm>)
- [8] "Governor Schwarzenegger Views Hydrogen-Powered Semi Truck" (<http://newsblaze.com/story/20091021061225zzzz.nb/topstory.html>). Newsblaze.com. 2009-10-21. . Retrieved 2010-09-12.
- [9] Grinberg, Emanuella (2010-09-23). "California prepares for first execution since lethal injection review" (<http://news.blogs.cnn.com/2010/09/23/california-prepares-for-first-execution-since-lethal-injection-review/>). CNN. . Retrieved 2010-09-26.
- [10] "Riverside DA urges killer's execution" (http://www.mercurynews.com/news/ci_16152854). *San Jose Mercury News*. Associated Press. 2010-09-23. . Retrieved 2010-09-26.
- [11] "Execution of Albert Greenwood Brown Set for Wednesday" (<http://www.ktla.com/news/landing/ktla-albert-greenwood-brown,0,1845806.story>). *KTLA*. 2010-09-27. . Retrieved 2010-09-27.
- [12] Mintz, Howard (2010-09-25). "Condemned killer asks judge to reconsider ruling" (http://www.mercurynews.com/breaking-news/ci_16175319). *San Jose Mercury News*. . Retrieved 2010-09-26.
- [13] De Atley, Richard K. (2010-09-24). "EXECUTION: Choose how to die, inmate told" (http://www.pe.com/localnews/inland/stories/PE_News_Local_D_brown25.127737f62.html). *The Press-Enterprise*. . Retrieved 2010-09-26.
- [14] Elias, Paul (2010-09-25). "Timing of Calif. Execution Questioned" (<http://www.time.com/time/nation/article/0,8599,2021510,00.html>). *Time*. Associated Press. . Retrieved 2010-09-27.
- [15] Fagan, Kevn (2010-09-25). "California's San Quentin prison gets upgraded execution facility" (<http://www.suntimes.com/news/nation/2745118,CST-NWS-execute26.article>). *Chicago Sun-Times*. Scripps Howard News Service. . Retrieved 2010-09-27.
- [16] "Condemned inmate asks for stay of execution" (<http://abclocal.go.com/kgo/story?section=news/state&id=7690334>). KGO-TV. 2010-09-26. . Retrieved 2010-09-27.
- [17] Egelko, Bob (2010-09-26). "Albert Greenwood Brown set to die from drug combo" (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/09/26/MN8N1FK2UN.DTL>). *San Francisco Chronicle*. . Retrieved 2010-09-27.
- [18] Kleinfeld, A.; KcKeown, M.; Fisher, R. (2010-09-27). "Michael Angelo Morales and Albert Greenwood Brown v. Matthew Cate" (<http://www.ca9.uscourts.gov/datastore/general/2010/09/27/RemandOrder.pdf>). U.S. 9th Circuit Court of Appeals. . Retrieved 2010-09-27.
- [19] Mintz, Howard (2010-09-28). "Federal judge blocks California execution" (http://www.mercurynews.com/crime-courts/ci_16200421). *San Jose Mercury News*. . Retrieved 2010-09-29.
- [20] Egelko, Bob (2010-09-28). "Judge blocks Thursday night execution" (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/09/28/BAOB1FL5OU.DTL>). *San Francisco Chronicle*: pp. 1-2. . Retrieved 2010-09-28.
- [21] Egelko, Bob (2010-09-28). "Court sends execution case back to U.S. judge" (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/09/27/MNLM1FKDE3.DTL>). *San Francisco Chronicle*: pp. 1-2. . Retrieved 2010-09-28.
- [22] "Schwarzenegger delays ex-Tulare man's execution" (<http://www.visaliatimesdelta.com/article/20100928/NEWS01/9280315/>). *Visalia Times-Delta*: pp. 1-2. 2010-09-28. . Retrieved 2010-09-28.
- [23] *Roper v. Simmons*, 543 U.S. 551 (2005)
- [24] *Atkins v. Virginia*, 536 U.S. 304 (2002)
- [25] California Penal Code § 37 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=37-38>)
- [26] California Penal Code § 128 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=118-131>)
- [27] California Penal Code § 190 and 190.1 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=187-199>)
- [28] California Penal Code § 219 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=217.1-219.3>)
- [29] "Massie Executed For 1979 S.F. Murder / Witnesses see procedure from beginning to end" (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2001/03/27/MN169453.DTL>). Sfgate.com. 2001-03-27. . Retrieved 2010-09-12.

[30] "Massie on Death Row - On Again, Off Again" (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2001/03/14/ED199822.DTL>). Sfgate.com. 2001-03-14. . Retrieved 2010-09-12.

External links

- Inmates Executed, 1978 to Present (http://www.cdcr.ca.gov/Reports_Research/Inmates_Executed.html). *California Department of Corrections and Rehabilitation*. Retrieved on 2007-11-12.
- Executions in California 1778–1967 (<http://users.bestweb.net/~rg/execution/CALIFORNIA.htm>)
- Capital Punishment Information (http://www.cdcr.ca.gov/Reports_Research/capital.html) from the California Department of Corrections and Rehabilitation
- "Two-thirds of California voters favor the death penalty, But a sizeable minority believe it has not been fairly implemented (PDF)" (<http://field.com/fieldpollonline/subscribers/RLS2112.pdf>) (PDF). Field Research Corporation. 5 March 2004.
- California execution chamber photos (http://www.cdcr.ca.gov/News/Lethal_Injection_Facility_Gallery.html)

Article Sources and Contributors

Capital punishment in California *Source:* <http://en.wikipedia.org/w/index.php?oldid=388371550> *Contributors:* ARTEST4ECHO, Adashiel, Ben Jos, Blahedo, Bobblewik, Bobo192, Closedmouth, Crusoe8181, Darth Kalwejt, Davehi1, David Kernow, Daviddaniel37, Dawnseeker2000, Deathwolf9000, Deville, Dimma2006, Dina, Docu, Drmonth, Eastlaw, Ericxpenner, Evil Monkey, Fbi205agent, Fpo, Funnybunny, GCarty, Gilliam, Gobonobo, Good Olfactory, Gtrmp, Howcheng, Ibagli, Incoherent fool, Int21h, Iota, Ixfd64, IzmirEkmek, Jack Cox, Jackollie, Jarvishill, Jenkins, Jaydlewis, Jiang, John Paul Parks, KimChee, Ligulem, MNPoliSci, Malosinus, Mdeombeleg, Mellery, Mfk91, Milch78, Millionsandbillions, Neutrality, Nlu, Noahudlis, Ohconfucius, Ombudsman, Optigan13, Postdlf, Pstudier, Quantpole, Quidam65, R'n'B, Raz1el, Rfc1394, Rjwilmsi, Rmhermen, Robert Mercer, Roentgenium111, Samwb123, Seminumerical, Seth Ilys, Shoplifter, Smm650, Splash, Sterden, Tassedethe, Tcp-ip, The stuart, Trademark123, Typpo, Venustus 12, WhisperToMe, WilliamH, 63 anonymous edits

Image Sources, Licenses and Contributors

Image:gaschamber.jpg *Source:* <http://en.wikipedia.org/w/index.php?title=File:Gaschamber.jpg> *License:* unknown *Contributors:* User:68.39.174.238

File:SanQuentinSP.jpg *Source:* <http://en.wikipedia.org/w/index.php?title=File:SanQuentinSP.jpg> *License:* Public Domain *Contributors:* SaintHammett, WhisperToMe, Ö

File:CentralCaliforniaWomensFacility.jpg *Source:* <http://en.wikipedia.org/w/index.php?title=File:CentralCaliforniaWomensFacility.jpg> *License:* Public Domain *Contributors:* California Department of Corrections

Image:Hon Jeremy D Fogel.jpg *Source:* http://en.wikipedia.org/w/index.php?title=File:Hon_Jeremy_D_Fogel.jpg *License:* Public Domain *Contributors:* KimChee

file:SQ old execution room.jpg *Source:* http://en.wikipedia.org/w/index.php?title=File:SQ_old_execution_room.jpg *License:* Public Domain *Contributors:* KimChee

file:SQ new execution room.jpg *Source:* http://en.wikipedia.org/w/index.php?title=File:SQ_new_execution_room.jpg *License:* Public Domain *Contributors:* KimChee

License

Creative Commons Attribution-Share Alike 3.0 Unported
<http://creativecommons.org/licenses/by-sa/3.0/>