

# DEATH WATCH

BY MILTON HIRSCH

## They killed Louis Jones Jr.

Louis Jones Jr. served in the first Gulf War. He served with distinction, and came back with decorations. He was one of about 130,000 U.S. soldiers who were exposed to Iraqi nerve gas when our troops destroyed an enemy weapons depot in the spring of 1991. How that affected him — how much that affected him — we'll never know. What we know is that they killed Louis Jones Jr. last March.

But Louis Jones Jr. did not die of any war wound. We killed him ourselves. Louis was executed for committing a brutal murder. Whether that murder had anything to do with what Louis endured in war is the sort of thing people argue about. But there's no arguing with the fact that America taught Louis Jones Jr. to kill, sent him to kill, and asked him to be ready to die. He was an instrument of America's will, prepared to make the ultimate sacrifice. Then he died at America's hands, subjected by America to its ultimate penalty. There's no argument about that.

### Crime spikes after war

America has sent another quarter-million of its sons and daughters to war in Iraq. Many have served with distinction. Some, such as Louis Jones Jr., will come back with decorations. A few, like Louis, will commit crimes when they return. It is an unpleasant fact, but it is a plain fact. We have taught our sons and daughters in uniform to kill, to move past the sight and smell of blood, to walk through rapine and chaos. These lessons are not unlearned easily or quickly. After every war the crime statistics spike, and it is the same after this war. Some number of returning veterans will be arrested, detained, imprisoned. Some of their crimes will be inexplicable and petty. Others, like that of Louis Jones Jr., will be inexplicable and horrid.

Since the Persian Gulf War, America's legal landscape has changed. After a hiatus of almost 40 years the federal government restored the use of the death penalty in 2001. The number of federal crimes for which death may be imposed is now at least 40. In the 22 months since the federal death penalty was restored, the federal government has executed three people. Louis Jones Jr. was the third. No matter Louis Jones Jr.'s crime, the nation for which he risked his life should not have

been allowed to take that life.

### Little bit of mercy

Whether the death penalty is, as a general proposition, a good or a bad thing is something else that people argue about. But not here, not now. Here the general proposition is this: If a soldier has offered America his life in time of war, America should not take his life in time of peace. We may, we should, punish him for his crimes. But we must not, we should not, stain our hands with his blood. Those who have served under the colors, those who are serving under the colors, those who will serve under the colors, are entitled to that little bit of mercy.

There is ample precedent for such a general proposition. Prior to the abolition of the death penalty in England, that punishment routinely attached to most felonies. But by long-standing custom a certain allowance was made for the veteran. If the fellow in the dock had served under Nelson at Trafalgar or fought faithfully at the Somme, the judicial heart would soften and the sentence would be commuted to life imprisonment — a harsh penalty, to be sure, but the blood of the old tar or Tommy would not be on the Crown's hands

The Bureau of Prisons has dungeons deep enough for the worst of offenders. If an old soldier deserves it — as Louis Jones Jr. did — let him be prosecuted like

### About the Authors

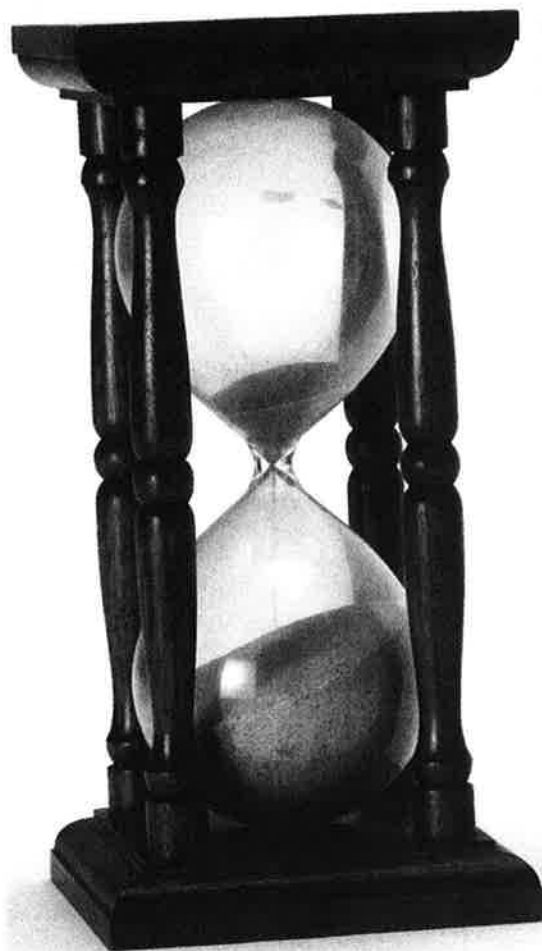
Milton Hirsch is the author of *Hirsch's Florida Criminal Procedure*, the leading treatise of its kind in Florida. He is a Past President of the Florida Association of Criminal Defense Lawyers (FACDL) Miami Chapter. An adjunct professor at Nova University Law Center and a member of NACDL's Board of Directors, he authored the *amicus* brief for NACDL in *Florida v. Riley*.



#### Milton Hirsch

Two Datan Center, Suite 1200  
9130 S. Dadeland Boulevard  
Miami, FL 33156  
305-670-0077  
Fax 305-670-7003

E-MAIL [mhirsch@hirschmarkus.com](mailto:mhirsch@hirschmarkus.com)



any other criminal, then let him fade away beneath the shadow of prison walls. But to those from whom we ask so much, we can promise at least this: We won't later take from you that which you risked for us. Your life is yours to keep. ■

## FROM THE PRESIDENT

(Continued from page 4)

### No confidence

In view of the extraordinary restrictions on counsel, however, with considerable regret, we cannot advise any of our members to act as civilian counsel at Guantanamo. The rules regulating counsel's behavior are just too restrictive to give us any confidence that counsel will be able to act zealously and professionally.

Perhaps a new Colonel Royall will prove us wrong.

Note: The material concerning Col. Royall is based primarily on Glendon and Winfield, *Colonel Royall Vigorously Defended Saboteurs Captured on U.S. Shores*, N.Y.S. BAR JOURNAL, February 2002, and Cohen, *The Keystone Kommandos*, ATLANTIC MONTHLY, February 2002) ■