



## United States Mission to the OSCE

### **Response to the European Union's Statement on the Death Penalty**

As delivered by Chargé d'Affaires Kyle Scott  
to the Permanent Council, Vienna  
February 12, 2009

Thank you, Madame Chairwoman.

We would like to thank the European Union for its routine expression of concern regarding the death penalty in the United States.

As we have stated on many occasions here in this forum, the use of the death penalty in the United States is a decision of democratically elected governments at the federal and individual state levels. It is not prohibited by international law, nor does capital punishment violate any OSCE commitments. The people of the United States, acting through their freely elected representatives, have chosen, in most states, not to abolish the death penalty.

The U.S. judicial system provides exhaustive protections to ensure that the death penalty is not applied in an extra-judicial, summary or arbitrary manner. The U.S. Supreme Court has repeatedly held that capital punishment itself does not violate the U.S. Constitution. Capital punishment may only be carried out subject to the extensive due process and equal protection requirements, and after exhaustive appeals.

And I would also point out, as we have on numerous occasions, that capital punishment continues to be the subject of vigorous and open discussion among the American people.

And Chairwoman and fellow delegates, while we very much respect the importance that the European Union attaches to this issue and the passion with which they hold those views we would ask that the European Union's passion not overtake their checking of facts.

In the case of Edward Bell, a repeat offender who was previously charged with assault with a deadly weapon, convicted of drug trafficking, who openly threatened a police officer with killing him and eventually carried out that threat, shooting the man at point blank range in the head. Mental retardation was never an issue in the Bell case. It was never alleged by his attorneys, it was never mentioned by any of the advocacy groups following this case, nor put as a question at any step of the exhaustive judicial process in this case.

With regard to the question of counselor access, the Jamaican Consulate was promptly informed by the Virginian authorities of Mr. Bell's arrest despite Mr. Bell's own demands that they not be informed. The Winchester authorities, recognizing their obligations under U.S. and international law, nonetheless informed Jamaican Consulate authorities on two separate occasions of his arrest.

With regard to the case mentioned in Tennessee, the United States is a country governed by the rule of the law, and the state of Tennessee, as one would expect, when there was a

challenge before our Supreme Court regarding procedures used by Tennessee in carrying out capital punishment, put on hold any further implementation of its capital punishment until such time when the court case was decided by the Supreme Court. There never was any official or de-facto moratorium; simply the process of due review by our courts on the way.

Thank you.