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Roger Williams University School of Law

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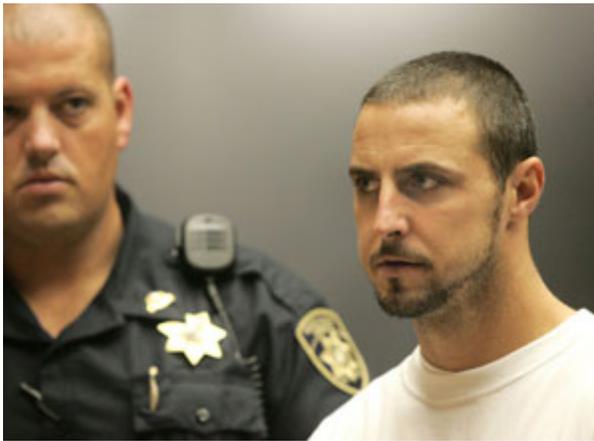
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# Newsroom

## Goldstein on Governor's Death Penalty Stand

Professor Jared Goldstein talks to the Providence Journal about Governor Chafee's refusal to turn over a potential death-penalty offender to the feds.

From the PROVIDENCE JOURNAL: "[Chafee refuses to give suspect to feds](#)" by Richard C. Dujardin and John Hill, Journal Staff Writers



**PROVIDENCE, June 24, 2011**— Governor

Chafee is refusing to turn over a suspected murderer in state custody to the federal government, declaring that doing so would expose prisoner Jason Wayne Pleau to the death penalty, a penalty he says has been “consciously rejected” by Rhode Island, even for the most heinous of crimes.

In a letter dispatched to U.S. Attorney Peter F. Neronha Thursday afternoon, Chafee said he is not going to allow the transfer of Pleau, who has been accused of robbing and killing gas station manager David D. Main as he prepared make a deposit at a Citizens Bank branch in Woonsocket on Sept. 20.

If prosecuted in the federal system, Pleau would fall under the Hobbs Act, in which conspiracy and robbery can be punishable by life imprisonment or death if a firearm was used in a crime that results in death.

In his letter, Chafee said his rejection of the federal request “should in no way minimize the tragic and senseless nature of Mr. Main’s murder,” and declared that “the person or persons responsible for this horrific act must, and will, be prosecuted and punished to the full extent of the law. I extend my deepest sympathy to Mr. Main’s family for their unspeakable loss.”

At the same time, he said Rhode Island would not impose the death penalty.

“In light of this long-standing policy, I cannot in good conscience voluntarily expose a Rhode Island citizen to a potential death-penalty prosecution. I am confident that Attorney General [Peter F.] Kilmartin and Rhode Island’s criminal justice system are capable of ensuring that justice is served in this matter.”

Chafee has been a longtime opponent of capital punishment. In an August 2006 debate with Cranston Mayor Steven Laffey, Chafee was asked if he would support the death penalty for Osama bin Laden if he were caught and convicted of masterminding the Sept. 11, 2001, attacks.

“It’s a highly emotional issue,” he said. “Rhode Island executed an innocent man in the 19th century, and I oppose the death penalty.”

When moderator Jim Taricani repeated the question, and gave him a chance to back off his answer, Chafee stood his ground.

“I oppose the death penalty,” he said. “These highly emotional issues will come up, and you’ve probably mentioned the most highly emotional of all.”

It was not immediately clear Thursday night whether any other states have flatly rejected a request to turn over a prisoner to the federal government.



But **Jared Goldstein, a professor of constitutional law at Roger Williams University, said** it’s possible Chafee was within his legal rights to turn down the

request, given that the federal government didn't get a court order that would have mandated it be given custody, but made the request under another agreement that allows states to request an interstate retainer.

"This agreement gives each state the discretion to decline a request from another state. It may be that the state is within its rights, though it is still not clear to me whether a state can decide not to turn over a defendant because it disagrees with the federal policy," **Goldstein said**. "Usually, federal law trumps state policy but, in this case, I think an argument can be made either way." **Goldstein said** the federal prosecutors could get an order from a federal judge that state officials could not ignore.

Jim Martin, a spokesman for the U.S. Attorney, said Neronha was faxed a copy of Chafee's letter prior to his getting a plane to Rhode Island after attending a daylong conference in Washington. He said Neronha told him that his office plans to "move forward with the prosecution" and had other ways of gaining custody.

Amy Kempe, a spokeswoman for state Attorney General Peter F. Kilmartin, said her boss was on a plane returning from a meeting of state attorney generals in Chicago and was not available for comment.

Ironically, Pleau's case came up last year as an example of competing federal-state jurisdictions. At a program at the Roger Williams University School of Law in November 2010, Neronha and then-Attorney General Patrick C. Lynch used the case — the killing had occurred just about two weeks before — as an example of competing state and federal interests.

Lynch and Neronha said they would review cases to determine which office had stronger case and better chance to win. Sometimes, state or federal law allows more leeway, or permits more evidence for a particular type of crime, they said, and sometimes the greater sentence available was a factor.

With Pleau, Rhode Island had an interest in the murder of one of its citizens, Lynch said, and one of the defendants in the case had a suspended sentence for a previous state conviction.

Neronha said the federal government had traditionally taken an interest in crimes involving banks.

"Banks are important to the United States," he said. "People who use them are important to the United States."

*For full story, click [here](#).*