



## Bureau of Justice Statistics Bulletin

# Capital Punishment 1984

At yearend 1984, States reported a total of 1,405 prisoners under sentence of death. During that year, 280 prisoners were received under sentence of death and 84 prisoners were removed from the population under sentence of death (including 21 prisoners executed). The 21 executions carried out during 1984 brought to 32 the total number executed since 1976 when the death penalty was affirmed in three cases before the United States Supreme Court. Since 1930, when national reporting began, 3,891 executions have been conducted under civil authority in the United States.<sup>1</sup>

All persons under sentence of death at yearend 1984 were convicted of murder. Of the 1,405 inmates, 1,388 were male and 17 were female; 804 were white, 585 were black, and 16 were classified as other races.<sup>2</sup> The median age of those under sentence of death was 31 years and the median time since sentence was imposed was 33 months. Approximately 2 of every 3 offenders under sentence of death had a prior felony conviction; nearly 1 out of 10 had previously been convicted of homicide. About 2 out of 5 were under some criminal justice status at the time of their capital offense; half of these—20% of all those under sentence of death—were on parole, while the rest either were on probation, were prison inmates or escapees, or had pending charges.

Nearly 63% of those under sentence of death were held by States in the South. Western States accounted for an additional 21% of those sentenced to death, North Central States for 12%, and Northeastern States for 4%.

<sup>1</sup>An additional 160 executions have been carried out under military authority since 1930.

<sup>2</sup>Other races include American Indians and Asian Americans. For additional discussion of race and capital punishment see the appendix.

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Capital Punishment 1984 marks the 54th consecutive year that data describing prisoners under sentence of death have been published by the Federal government. This year's report incorporates information on the criminal histories of those under sentence of death, including the number with prior felony convictions and prior convictions for homicide, as well as their criminal justice status at the time of the capital offense (e.g.; on probation or parole, facing pending charges for other crimes, or a prison inmate or

escapee). Given the continuing interest in race data relating to capital punishment, this report presents data for 1980 through 1984 comparing the race of those arrested, imprisoned, sentenced to death, and executed for murder. The Bureau of Justice Statistics gratefully acknowledges the cooperation and participation of State officials whose generous assistance makes this reporting program possible.

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Director

Florida had the largest number of inmates under sentence of death (215), followed by Texas (178), California (172), and Georgia (111). Of those received under sentence of death in 1984, 56% were in the South, 20% in the West, 16% in North Central States, and 8% in the Northeast. Twenty-seven States received prisoners under a sentence of death in 1984; by yearend 1984 a total of 32 states had prisoners under sentence of death.

The 21 executions in 1984 were carried out by six States: 8 in Florida, 5 in Louisiana, 3 in Texas, 2 in Georgia, 2 in North Carolina, and 1 in Virginia. Of those executed, 13 were white males, 7 were black males, and 1 was a white female. Between 1977 and 1984, about 1.4% of those under sentence of death were executed and approximately 36% received other dispositions resulting in removal from the population under sentence of death. Those executed between 1977 and 1984 spent an average of 6 years between the time the death sentence was originally imposed and the date it was carried out.

### Capital punishment in the courts

In the 1972 decision Furman v. Georgia, the Supreme Court struck down on Eighth Amendment grounds State and Federal capital punishment laws that permitted wide discretion in the application of the death penalty. In response, many States revised their statutes to conform to the guidelines in Furman. The High Court clarified these guidelines in a series of five decisions announced on July 2, 1976. In Woodson v. North Carolina and Roberts v. Louisiana the Court struck down State statutes that required mandatory imposition of the death penalty for specified crimes. As a direct consequence, mandatory death penalty provisions in 21 States were invalidated either through subsequent court action or repeal by State legislatures. This resulted in the modification (to life imprisonment) of death sentences imposed upon hundreds of offenders in these States. In three other major cases, however, the Supreme Court upheld State death penalty laws that afforded sentencing authorities

discretion to impose death sentences for specified crimes (Gregg v. Georgia, Jurek v. Texas, and Proffitt v. Florida). The Court validated statutes that permitted the imposition of the death penalty after consideration of aggravating and mitigating circumstances.

Further refinements in the Court's views of State death penalty statutes were offered in cases during the late 1970's and early 1980's relating to such issues as whether rape may be punishable by death (Coker v. Georgia), mitigating factors only listed in statute (Lockett v. Ohio), excusing jurors from service (Adams v. Texas), findings by juries on lesser included offenses (Beck v. Alabama), the use of testimony from a pretrial competency hearing (Estelle v. Smith), failure to consider mitigating factors (Eddings v. Oklahoma), conviction under a statute that has been partially struck (Hopper v. Evans), jury instructions regarding possible commutation by a governor (California v. Ramos), commission of "harmless, error" by sentencing judge (Barclay v. Florida), and admissibility of psychiatric evidence predicting future dangerousness (Barefoot v. Estelle).

During 1984 the U.S. Supreme Court made a key decision on the issue of proportionality in capital cases. This is the concept that States should compare each death sentence with sentences imposed in comparable cases throughout the State to determine whether similar cases are being handled in a similar way. On January 23, 1984, the Court upheld the death sentence in a California murder case, holding that a proportionality review by an appellate court was not a Constitutional requirement, even though many State death penalty laws provided for such a review (Pulley v. Harris).

On May 14, 1984, in Strickland v. Washington, the U.S. Supreme Court handed down an important decision bearing on the Sixth Amendment's guarantee of a defendant's right to "reasonably effective" counsel in capital cases. The defendant had originally appealed a Florida court's death sentence in a multiple murder case on grounds that his counsel had been ineffective in failing to seek out character witnesses or to request a psychiatric examination. The appeals to the State Supreme Court and Federal District Court were rejected because "aggravating circumstances" had justified the death penalty, and although it was conceded that the counsel had erred in failing to investigate mitigating evidence, "no prejudice" to the defendant's sentencing had resulted.

Table 1. Profile of capital punishment statutes and legal changes during 1984

Jurisdictions authorizing capital punishment at some time during 1984	Struck down by courts	Revised or replaced by legislature	Automatic appeals required	Capital offenses
Federal				Aircraft piracy
Alabama			Yes	Murder
Arizona		Yes	Yes	First degree murder
Arkansas				Capital murder
California	Partially			First degree murder w/special circumstances
Colorado		Yes		First degree murder, first degree kidnaping w/death of the victim
Connecticut			Yes	Murder
Delaware			Yes	First degree murder
Florida		Yes		First degree murder
Georgia				First degree murder
Idaho		Yes	Yes	First degree murder, kidnaping w/aggravating factors
Illinois		Yes	Yes	Murder
Indiana			Yes	Murder
Kentucky			Yes	First degree murder, kidnaping when victim is killed
Louisiana			Yes	First degree murder
Maryland		Yes	Yes	First degree murder
Massachusetts	Wholly			
Mississippi			Yes	Capital murder, rape in the commission of another felony, felonious child abuse, rape of a female child under the age of 12 by a person age 18 or older
Missouri		Yes	Yes	First degree murder
Montana			Yes	Deliberate homicide, aggravated kidnaping resulting in victim death
Nebraska			Yes	First degree murder
Nevada			Yes	First degree murder
New Hampshire			Yes	Contract murder or murder of a law enforcement officer or kidnaping victim
New Jersey				Knowing or purposeful murder, contract murder
New Mexico			Yes	First degree murder
New York	Wholly			
North Carolina			Yes	First degree murder
Ohio				Aggravated murder
Oklahoma			Yes	Murder
Oregon		Yes	Yes	Aggravated murder
Pennsylvania			Yes	First degree murder
South Carolina			Yes	Murder with specified aggravating circumstances
South Dakota		Yes	Yes	First degree murder, kidnaping with gross permanent physical injury
Tennessee			Yes	First degree murder
Texas			Yes	Murder of public safety officer, fireman, or prison employee; murder during specified felonies or escapes; contract murder
Utah			Yes	First degree murder, aggravated assault by a prisoner
Vermont				Murder of police or corrections officer, kidnaping for ransom
Virginia			Yes	Capital murder
Washington			Yes	Aggravated murder
Wyoming		Yes	Yes	First degree murder
Note: Jurisdictions not authorizing the death penalty during 1984 were Alaska, District of Columbia, Hawaii, Iowa, Kansas, Maine, Michigan, Minnesota, North Dakota, Rhode			Island, West Virginia, and Wisconsin. For additional detail on revisions and capital offenses see table 2.	

Although the Federal Court of Appeals reversed these judgments, citing the Sixth Amendment, the High Court upheld the trial court's decision on grounds that the counsel's conduct had been "reasonable" and that no omitted evidence "would have changed the conclusion that the aggravating circumstances outweighed the mitigating circumstances."

Another important issue—whether trial judges may override jury recommendations of life imprisonment and

impose a death penalty—was dealt with by the High Court in Spaziano v. Florida on July 2, 1984. In this case, which involved a murder preceded by torture of the victim, the judge had overridden a jury recommendation for life imprisonment, which under Florida law was advisory only.

The High Court held that (1) it is not error for a trial judge to fail to instruct a jury on lesser included offenses when no such offense is asserted by the prosecution, (2) there is no

Constitutional requirement that a jury recommendation for a life sentence in a capital case be final and preclude the trial judge from imposing the death penalty, (3) there is no Constitutional requirement that juries must decide whether the death penalty can be imposed, and (4) there is no Constitutional prohibition against jury override by a judge.

The application of the Fifth Amendment protection against "double jeopardy" in a capital sentence was decided by the High Court on May 29, 1984 (*Arizona v. Rumsey*). In this case the Court set aside a sentence to death. The defendant, convicted of murder committed during a robbery, had appealed to the Arizona Supreme Court against two consecutive sentences: life imprisonment for murder and 21 years for armed robbery. The State filed a cross-appeal for resentencing of the murder conviction on grounds that the trial judge had erred in not interpreting the "pecuniary gain" motive (the robbery) as an aggravating factor in the case. The State Supreme Court rejected the defendant's appeal and ruled for the State in the cross-appeal, with the result that the trial court resented the defendant to death. In response to an appeal against the death sentence, the State Supreme Court ruled again in this case, holding that the resentencing violated the "double jeopardy" clause and ordered commutation to life imprisonment (the original sentence). This decision was upheld by the U.S. Supreme Court.

Another long-standing issue relating to capital cases—the standards for excusing jurors opposed to the death penalty—was presented to the U.S. Supreme Court during October 1984 in *Wainwright v. Witt*. In this case, a U.S. Court of Appeals had overturned a death sentence imposed by a Florida court on grounds that the trial judge had improperly excused a juror who had expressed qualms about voting for a death sentence. The appeals court cited the High Court's decision in *Witherspoon v. Illinois* (1968), when it had ruled that the State could not excuse jurors simply for expressing doubts about capital punishment, since such a jury thereby might become prosecution-prone in capital cases. In *Wainwright v. Witt*, the U.S. Supreme Court, on January 21, 1985, reversed the appellate court's judgment, holding that the juror in this case had been properly excused. The High Court held that, as a matter of principle, any juror could be excused if his views on capital punishment were deemed by the trial

Table 2. Additional detail on revisions and capital offenses

<p><b>Federal</b>—Air piracy 49 U.S.C. 1472-3.</p> <p><b>Arizona</b>—A.R.S. 13-703 (F)(8)—effective date 8/1/84—includes one or more other homicides occurring during the commission of a first-degree murder as an aggravating factor.</p> <p><b>Arkansas</b>—Article V, Chapter 15, Section 41-1501 defines capital murder as murder during the course of a prescribed felony (rape, kidnapping, arson, vehicular piracy, robbery, burglary, escape) murder of a law enforcement/public safety official in the line of duty, multiple murders, murder of candidates for public office and elected officials, murder while under sentence to life imprisonment, and contract murder.</p> <p><b>California</b>—California statute partially struck by State Supreme Court on 11/1/84 (<i>People v. Ramos</i> 37. Cal. 3d 136) relating to juror instructions on the possibility of sentence commutation by the Governor.</p> <p><b>Colorado</b>—Revisions to Sections 1-8, 16-11-103, Colorado Revised Statutes, 1978 Repl. Vol. relating to age of defendant, alternate jurors, evidence used in aggravation or mitigation, witness discovery, and standard of proof required for aggravating factors. Effective date 7/1/84.</p> <p><b>Florida</b>—Amendment to Section 782.04 incorporating murder resulting from aggravated child abuse into the categories of first degree murder subject to execution. Effective date 5/3/84.</p> <p><b>Idaho</b>—Revisions to Idaho Code Sections 19-2705, 2708, 2714, 2715, 2719 relating to sentencing procedures, suspension of judgment, pregnancy of the offender, stays of execution, setting of execution dates, and appeals. Effective date 4/2/84.</p> <p><b>Illinois</b>—Revision to Illinois Revised Statutes, Chapter 38, Section 9-1 (b) (6) (iic) modifies specific felonies to be considered as aggravating factors in murder (armed robbery, robbery, rape, aggravated criminal sexual assault, aggravated kidnapping, forcible detention, arson, aggravated arson, burglary, home invasion, or the attempt to commit any of these felonies). Effective date 7/1/84.</p> <p><b>Maryland</b>—Revision to Annotated Code of Maryland, Article 27, Section 413 (m) prescribes procedures for alternate jurors with respect to the sentencing of an offender convicted of first degree murder. Effective date 7/1/84. In Maryland, only</p>	<p>sentence review is automatic.</p> <p><b>Massachusetts</b>—Massachusetts' death penalty statute was struck in whole by a State court decision on October 18, 1984 (<i>Commonwealth v. Colon-Cruz</i> 393 Mass. 150).</p> <p><b>Mississippi</b>—Capital murder includes murder of a peace officer, murder by a life sentence inmate, murder perpetrated by bomb or explosive, contract murder, felony murder, and murder of an elected official.</p> <p><b>Missouri</b>—Replaced Sections 565.001 to Sections 565.040 of Missouri Statutes (RSMO Supp. 1984), on murder, manslaughter, trial procedures, and death penalty. Effective date 10/1/84.</p> <p><b>New Jersey</b>—Case on automatic appeal of death sentence currently pending in New Jersey State Supreme Court (<i>State v. Koedatich</i>).</p> <p><b>New York</b>—Because of current litigation, the New York State death penalty statute is not being enforced but the statute has not been repealed by the legislature. On 7/2/84, the statute was struck by the State Court of Appeals (63 NY 2d 41 and 479 NYS 2d 706) based on a case involving the murder of a correctional officer by an inmate (<i>People v. Lemuel Smith</i>). The State Court of Appeals found the mandatory death penalty statute did not provide for consideration of mitigating circumstances.</p> <p><b>Oregon</b>—New death penalty law. See Oregon Revised Statutes 163.105. Effective date 12/6/84.</p> <p><b>South Carolina</b>—No statutory limitation on age of defendant in South Carolina but there are statutory mitigating circumstances for defendants under the age of 18 which must be considered.</p> <p><b>South Dakota</b>—Revision to South Dakota Code of Laws Section 23A-27A-32 changing the method of execution from electrocution to lethal injection. Effective date 7/1/84.</p> <p><b>Virginia</b>—Chapter 4, Article 1, Section 18.2-31 defines capital murder as the murder of a kidnap victim, law enforcement officer, robbery or rape victim, murder by a prisoner in a State or local correctional facility, or multiple murders.</p> <p><b>Wyoming</b>—Revisions to Wyoming Statutes, 1977 Sections 7-13-904 providing for death by lethal injection. Effective date 6/5/84.</p>
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judge to "prevent or substantially impair the performance of his duties."

An additional issue of importance—which was still pending at yearend 1984—was the use of research findings suggesting racial discrimination in the imposition of the death penalty. During November 1984 and January 1985, the U.S. Supreme Court lifted stays of execution which it had originally granted to two black inmates on Georgia's death row. These inmates had contended that the death penalty in Georgia was applied in a discriminatory fashion based upon the race of murder victims. In both cases, the Supreme Court gave no explanation for lifting the stays of execution. In February 1985 in *McCleskey v. Kemp*, however, the Federal Court of Appeals in Atlanta rejected similar charges that Georgia's death

penalty was racially discriminatory. The Appeals Court held that, unless statistical statewide studies reflected a disparity so great as to compel the conclusion that there was systematic discrimination, only proof of deliberate racial prejudice in a particular case would demonstrate a Constitutional violation.

On October 11, 1983, the U.S. Court of Military Appeals, the Nation's highest military court, ruled that sentencing procedures in the Uniform Code of Military Justice did not conform to U.S. Supreme Court guidelines set down in the 1972 and 1976 landmark decisions. As a result of this decision, *U.S. v. Matthews*, the death sentences of seven men condemned under court-martial procedures were removed. New regulations remedying the defects in the

code were promulgated in an executive order effective January 24, 1984. Under these new regulations one offender was sentenced to death by the United States military in 1984.

### Capital punishment laws

At yearend 1984, 37 States and the Federal government had laws authorizing the death penalty (tables 1 and 2).<sup>3</sup> Oregon was the only State to enact a new capital punishment law in 1984, through referendum by the voters. The death penalty was struck down in two States: New York and Massachusetts. In New York on July 2, 1984, the State Court of Appeals declared the mandatory death penalty unconstitutional in People v. Lemuel Smith, a case involving the murder of a prison guard by an inmate serving a life term. The appeals court, whose judgment was subsequently upheld by the U.S. Supreme Court on February 19, 1985, struck down the law because it did not provide for consideration by the jury of aggravating and mitigating circumstances. In Massachusetts, in a case in October 1984 involving the murder of a police officer (Commonwealth v. Colon-Cruz), the State Supreme Court held that the State law's provision for a death penalty only after a jury trial was unconstitutional on grounds that it was likely to discourage defendants from asserting the right to plead not guilty. Guilty pleas would enable defendants to avoid the risk of execution by not seeking a jury trial.

**Statutory changes.** During 1984, nine States altered their existing death penalty statutes. Two of the nine changed their methods of execution. South Dakota changed from electrocution to lethal injection; Wyoming, which had previously authorized lethal gas, added lethal injection as an alternative method. Florida, Missouri, and Arizona added new aggravating circumstances to their capital punishment laws. Florida included aggravated child abuse in

<sup>3</sup>The only Federal crime for which capital punishment is now authorized is aircraft piracy (excluding crimes prosecuted under military authority).

Method	States that use method
Electrocution	Alabama, Arkansas*, Connecticut, Florida, Georgia, Indiana, Kentucky, Louisiana, Nebraska, Ohio, Oklahoma**, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia
Lethal injection	Arkansas*, Idaho*, Illinois, Montana*, Nevada, New Jersey, New Mexico, North Carolina*, Oklahoma**, Oregon, South Dakota, Texas, Utah*, Washington*, Wyoming*
Lethal gas	Arizona, California, Colorado, Maryland, Mississippi, Missouri, North Carolina*, Wyoming*
Hanging	Delaware, Montana*, New Hampshire, Washington*
Firing squad	Idaho*, Oklahoma**, Utah*

\* Provides for two methods of execution.  
\*\* Provides for three methods of execution.

its listing of circumstances that may aggravate homicide to "capital murder." Missouri added murders committed in the hijacking of public conveyances and murders of employees of correctional facilities. Arizona revised its statute to incorporate multiple homicides during a first-degree murder as an aggravating factor. Maryland and Colorado established separate sentencing procedures to determine whether the death sentence or life imprisonment should be imposed in murder cases and specified the aggravating or mitigating circumstances to be considered. In California the State Supreme Court limited imposition of the death penalty for murders committed during a felony to cases where it had been proven that the defendant actually intended to kill the victim. Idaho required judges to set execution dates within 1 month of sentencing and enacted other measures to eliminate delays in carrying out sentences to death.

**Methods of execution.** At yearend 1984, eight States provided for more than one method of execution—lethal injection and one or more alternative methods—at the election of the condemned prisoner (table 3). Electrocution (16 States) and lethal injection (15 States) were the most common methods of execution provided for in the statutes. In addition, lethal gas was

permitted in eight States; hanging in four States; and a firing squad in three States. Some States, anticipating the possibility that lethal injection may be found unconstitutional, have provided for an alternative method. Each of the other four methods, previously challenged on Eighth Amendment grounds as cruel and unusual punishment, has been found to be constitutional.

**Automatic review.** Most capital punishment statutes provide for an automatic review of all death sentences. Some require a review of both conviction and sentence, while others require a review only of the sentence. Typically, the review is undertaken directly by the State Supreme Court. If either the conviction or sentence is vacated, the case may be remanded to the trial court for additional proceedings or retrial. It is possible that after retrial or resentencing the death sentence may be reimposed. Some statutes also allow the State Supreme Court to commute a death sentence to life imprisonment.

**Minimum age.** A total of 21 States specify a minimum age for which the death penalty may be imposed (table 4). In some States the minimum age is specified in the capital punishment statute; in others it is, in effect, set forth in the statutory provisions that determine the age at which a juvenile

10 years	13 years	14 years	15 years	16 years	17 years	18 years	No minimum age specified
Indiana	Mississippi	Maryland Missouri New Jersey North Carolina South Carolina	Arkansas Louisiana Virginia	Montana Nevada Oregon	New Hampshire Texas	California Alabama Connecticut Illinois Nebraska New Mexico Ohio	Federal Oklahoma Pennsylvania South Dakota Tennessee Utah Virginia Washington Wyoming Kentucky

**Note:** There was only one individual under sentence of death at yearend 1984 who was under 18 years old; he was 17.

may be transferred to criminal court for trial as an adult. The most frequently specified ages are 18 years old (six States) and 14 years old (five States). Altogether, 15 States authorize capital punishment for those under 18 years old. Sixteen States and the Federal system report no specified minimum age.

### Prisoners under sentence of death at yearend 1984

All persons under sentence of death at yearend 1984 were convicted of murder. The FBI's Uniform Crime Reports reveal that during the 10-year period 1975 to 1984, 204,000 Americans were victims of murder or nonnegligent manslaughter and there were an estimated 198,000 arrests for these crimes (table 5). During the same period 2,384 persons entered prisons under sentence of death and 32 offenders were executed.

At yearend 1984 States reported a total of 1,405 persons under sentence of death (table 6). States with the largest number of prisoners under sentence of death were Florida (215), Texas (178), California (172), and Georgia (111). A total of 280 persons entered prison under sentence of death in 1984 and 84 persons were removed (21 by execution). The yearend 1984 population was 16% higher than that of 1983.

While 37 States had statutes authorizing the death penalty (covering 78% of the Nation's adult population), 5 of these reported no prisoners under sen-

tence of death at yearend (Connecticut, New Hampshire, Oregon, South Dakota, and Vermont). New York's sole death-row inmate at yearend '83 was removed during 1984 as a result of a court decision invalidating the death penalty statute. Oregon was the only State to adopt the death penalty during 1984.

Of the 1,405 persons under sentence of death at yearend 1984, more than three-fifths were in the South. An additional 21% were confined in correctional facilities in the West, 12% in the

North Central States, and 4% in the Northeast. Nearly all were males (98.8%) and most were white (57.2%) (table 7). Blacks constituted 41.6% of those under sentence of death, and another 1.1% were American Indians or Asian Americans. States reported 89 Hispanics under sentence of death, 6.3% of the total. The largest numbers of Hispanics were held in States with relatively large Hispanic populations: Texas (29), California (26), Florida (10), and 7 each in Arizona and Illinois.

The median age of those under sen-

Table 6. Prisoners under sentence of death, by region and State, 1984

Region and State	Prisoners under sentence 12/31/83	Changes during 1984			Prisoners under sentence 12/31/84
		Received under sentence	Removed from death row (excluding executions)	Executed	
<b>United States</b>	<b>1,209</b>	<b>280</b>	<b>63<sup>a</sup></b>	<b>21</b>	<b>1,405</b>
Male	1,196	272	60	20	1,388
Female	13	8	3	1	17
Federal <sup>b</sup>	0	0	0	0	0
State	1,209	280	63	21	1,405
<b>Northeast</b>	<b>39</b>	<b>21</b>	<b>3</b>		<b>57</b>
Connecticut	0	0	0		0
New Hampshire	0	0	0		0
New Jersey	3	7	0		10
New York	1	0	1		0
Pennsylvania	35	14	2		47
Vermont	0	0	0		0
<b>North Central</b>	<b>136</b>	<b>46</b>	<b>8</b>		<b>174</b>
Illinois	64	12	5		71
Indiana	21	7	2		26
Missouri	23	7	1		29
Nebraska	10	3	0		13
Ohio	18	17	0		35
South Dakota	0	0	0		0
<b>South</b>	<b>782</b>	<b>157</b>	<b>36</b>	<b>21</b>	<b>882</b>
Alabama	49	9	0		58
Arkansas	22	1	0		23
Delaware	6	0	0		6
Florida	193	38	8	8	215
Georgia	103	12	2	2	111
Kentucky	18	2	0		20
Louisiana	29	5	2	5	27
Maryland	11	8	0		19
Mississippi	37	7	5		39
North Carolina	33	12	6	2	37
Oklahoma	38	16	5		49
South Carolina	28	9	2		35
Tennessee	32	8	3		37
Texas	163	21	3	3	178
Virginia	20	9	0	1	28
<b>West</b>	<b>252</b>	<b>56</b>	<b>16</b>		<b>292</b>
Arizona	51	12	7		56
California	149	27	4		172
Colorado	1	1	1		1
Idaho	7	7	0		14
Montana	4	0	0		4
Nevada	23	8	3		28
New Mexico	6	0	1		5
Oregon	0	0	0		0
Utah	4	1	0		5
Washington	4	0	0		4
Wyoming	3	0	0		3

**Note:** States not listed, the District of Columbia, and New York did not have the death penalty as of 12/31/84. Some of the figures shown for yearend 1983 are revised from those shown in *Capital Punishment 1983*, NCJ-93925. The revised figures include 9 inmates who were reported late to the NPS program or who were not in the custody of State correctional authorities by 12/31/83 (5 in Louisiana, 2 in Pennsylvania, 1 in

Georgia, and 1 in Tennessee) and exclude 2 inmates relieved of the death sentence before 12/31/83 (1 in Kentucky and 1 in Oklahoma).

<sup>a</sup> Includes 4 inmates who committed suicide, 2 in Florida and 1 each in Indiana and California.

<sup>b</sup> Excludes prisoners held under Armed Forces jurisdiction. These tables do not include data for 1 male under a military death sentence for murder.

Table 5. Number of offenses and arrests for murder and nonnegligent manslaughter, entries under sentence of death, and executions, 1975-84

Year	Number of:		Number of entries under sentence of death	Number of executions
	Offenses	Arrests		
<b>Total</b>	<b>204,000</b>	<b>197,830</b>	<b>2,384</b>	<b>32</b>
1975	20,510	20,180	322	0
1976	18,780	17,250	249	0
1977	19,120	19,450	159	1
1978	19,560	19,840	209	0
1979	21,460	19,590	172	2
1980	23,040	20,040	200	0
1981	22,520	21,590	250	1
1982	21,010	21,810	284	2
1983	19,310	20,310	259	5
1984	18,690	17,770	280	21

**Note:** In some years there are more arrests than offenses because a single murder may have multiple offenders. Also, because of the time delay between each of the stages shown in the table, those who were executed in a particular year were not sentenced or arrested in the same year.

**Sources:** Crime in the United States, 1975-84; *Capital Punishment*, 1975-83.

tence of death was 31 years old. Less than 1% (11 offenders) were under the age of 20 and 1.7% (24 offenders) were 55 or older. The youngest was 17 and the oldest was 76. About 1 in 10 inmates had not gone beyond seventh grade, but a similar proportion had some college education. Approximately one-third were married, one-fifth were divorced or separated, and two-fifths had never been married.

Those admitted to and removed from the population of prisoners under sentence of death in 1984 mirrored those present at yearend with respect to basic demographic characteristics as well as educational attainment and marital status. As might be expected those admitted were younger and those removed were older.

The 17 women under sentence of death at yearend 1984 (1.2% of the total) were held in 12 States, with no State holding more than 2 women (table 8). Since 1972, a total of 15 States have had women under a sentence of death. Since 1976 one woman has been executed.

#### Entries and removals of persons under sentence of death

During 1984, 27 States reported new entries under sentence of death (table 6). Florida reported the largest number (38), followed by California (27) and Ohio (17).

Of the 280 entries under sentence of death—

- all were convicted of murder;
- 158 were white males, 111 were black males, and 3 were males of other races;
- 6 were white females, 1 was a black female, and 1 was a female of another race;
- 17 were Hispanic.

Twenty States reported a total of 84 persons removed from the population of prisoners under a sentence of death in 1984. Florida reported the largest number of removals, 16 (8 by execution), followed by North Carolina with 8 (1 by execution), and Arizona and Louisiana each with 7 (5 by execution in Louisiana).

Of the 84 prisoners removed from the population of those under a sentence of death in the States—

- 40 had their sentences lifted but convictions upheld;
- 21 were executed by six States;
- 16 had their sentences and convictions vacated;
- 4 died by suicide;

**Table 7. Demographic profile of prisoners under sentence of death, 1984**

	End of year 1984		1984 admissions		1984 removals	
	Number	Percent	Number	Percent	Number	Percent
<b>Total number under sentence of death</b>	1,405	100.0%	280	100.0%	84	100.0%
<b>Sex</b>						
Male	1,388	98.8%	272	97.1%	80	95.2%
Female	17	1.2	8	2.9	4	4.8
<b>Race</b>						
White	804	57.2%	164	58.6%	52	61.9%
Black	585	41.6	112	40.0	32	38.1
Other <sup>a</sup>	16	1.1	4	1.4	0	0
<b>Ethnicity</b>						
Hispanic	89	6.3%	17	6.1%	0	0%
Non-Hispanic	1,316	93.7	263	93.9	84	100.0
<b>Age<sup>b</sup></b>						
Less than 20 years	11	0.8%	17	6.1%	2	2.4%
20-24	215	15.3	68	24.3	7	8.3
25-29	391	27.8	65	23.2	16	19.0
30-34	311	22.1	48	17.1	25	29.8
35-39	247	17.6	45	16.1	16	19.0
40-54	206	14.7	31	11.1	15	17.9
55+	24	1.7	6	2.1	3	3.6
Median		31.1 years		28.3 years		32.7 years
<b>Education</b>						
7th grade or less	121	10.5%	26	11.7%	9	12.3%
8th	137	11.9	17	7.6	4	5.5
9th-11th	401	34.7	72	32.3	34	46.6
12th	385	33.4	81	36.3	20	27.4
Any college	110	9.5	27	12.1	6	8.2
Not reported	251		57		11	
Median		10.6 years		10.9 years		10.4 years
<b>Marital status</b>						
Married	443	33.7%	81	31.0%	25	31.6%
Divorced/separated	271	20.6	61	23.4	15	19.0
Widowed	29	2.2	7	2.7	2	2.5
Never married	570	43.4	112	42.9	37	46.8
Not reported	92		19		5	

**Note:** Percentage and median calculations based upon those cases for which data were reported.

<sup>a</sup> Consists of 11 American Indians and 5 Asian Americans.

<sup>b</sup> The youngest individual under sentence of death was 17 years old and the oldest was 76.

**Table 8. Number of women on death row, yearend 1972-84**

State	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
United States	4	3	3	8	7	6	5	7	9	11	14	13	17
California	3			1	2								
Georgia	1	2	1	1	1	1	1	2	3	4	4	3	2
North Carolina		1	2	3			2	1	1	1	1	1	
Ohio				2	3	4						2	2
Oklahoma				1				1	1	1	2	2	1
Florida					1	1	1	1	1				1
Alabama							1	1		1	1	2	2
Texas								1	2	2	2		1
Kentucky									1	1			
Maryland										1	2	1	2
Mississippi											1	1	1
Nevada											1	1	2
New Jersey													1
Arkansas													1
Idaho													1

- 1 had his sentence commuted;
- 1 had his sentence lifted when the State statute was struck down;
- 1 was transferred from one State (California) to another State (Nevada) where he was also under sentence of death.

Of the 58 prisoners whose death sentences were overturned, 30 had been

<sup>4</sup>The only prisoner under sentence of death in New York in 1984 was removed for this reason.

resentenced to life imprisonment by yearend 1984, 2 had been resentenced to terms longer than 20 years, 15 were awaiting new trials, 10 were awaiting resentencing, and in 1 case no further prosecution was sought.

From 1977, the year after the Supreme Court reinstated the death penalty, through 1984, a total of 1,813 persons have entered prison under a sentence of death and 828 persons have

**Table 9. Criminal history profile of prisoners under sentence of death, by race, 1984**

	Prisoners under sentence of death					
	All races <sup>a</sup>		White		Black	
	Number	Percent	Number	Percent	Number	Percent
<b>Number under sentence of death</b>	1,405	100.0%	804	100.0%	585	100.0%
<b>Prior felony conviction history</b>						
With	853	66.5%	473	63.0%	373	71.6%
Without	432	33.5	278	37.0	148	28.4
Not reported	117		53		64	
<b>Prior homicide conviction history</b>						
With	104	9.4%	50	7.7%	54	12.0%
Without	1,006	90.6	596	92.3	396	88.0
Not reported	295		158		135	
<b>Legal status at time of capital offense</b>						
Charges pending	61	5.5%	38	6.0%	21	4.6%
Probation	60	5.4	36	5.7	22	4.8
Parole	219	19.9	108	17.1	110	24.0
Prison escapee	29	2.6	20	3.2	9	2.0
Prison inmate	37	3.4	19	3.0	18	3.9
Other status <sup>b</sup>	18	1.6	10	1.6	7	1.5
None	678	61.5	401	63.4	271	59.2
Not reported	303		172		127	
<b>Median time elapsed since imposition of death sentence</b>	33 months		32 months		34 months	

**Note:** Percents calculated on those offenders for whom data were reported.  
<sup>a</sup> Includes persons classified as other races.  
<sup>b</sup> Includes 6 persons on mandatory release, 2 on bail, 1 on furlough from prison, 1 for whom charges were pending from the U.S. Army, and 8 on work release from prison.

been removed from the population under a sentence of death (32 by execution). Of those admitted 58% were white (1,046), and 41% were black (746); of those removed 56% were white (467) and 43% were black (356).

**Criminal history of death-row inmates in 1984**

Of those under sentence of death at yearend 1984 for whom such information was known, two-thirds had prior felony convictions preceding the capital offense (table 9). Nearly 1 in 10 had a prior conviction for homicide. (Where the information was reported for those with prior felony convictions, approximately 1 out of 6 had previously been convicted of homicide.)

Nearly 2 of every 5 prisoners sentenced to death had an active criminal justice status at the time of their capital offense. Half of these—20% of all those under sentence of death—were on parole, while the rest were either on probation (5%), were prison inmates (3%) or escapees (3%), or had pending charges (6%). Excluding those with pending charges, nearly 1 in 3 was already under sentence for another crime when the capital murder occurred.

The criminal history patterns were similar for whites and blacks, although somewhat higher proportions of blacks than whites had prior felony convictions, prior homicide convictions, or

were on parole at the time of the capital offense.

**Executions**

Since 1930, when data on executions were first collected by the Federal government, 3,891 executions have been conducted under civil authority (table 10). Since the death penalty was reinstated by the Supreme Court in 1976, the States have executed 32 persons.

After 1967, an unofficial moratorium on executions prevailed while legal challenges to the death penalty were pressed at various court levels. There were no executions until 1977, when one occurred, followed by two more in 1979, one in 1981, two in 1982, and five in 1983. In 1984 there were 21 executions.

**Table 10. Number of persons executed, by jurisdiction in rank order, 1930-84**

State	Number executed	
	Since 1930	Since 1977
<b>U.S. total</b>	<b>3,891</b>	<b>32</b>
Georgia	369	3
New York	329	
Texas	301	4
California	292	
North Carolina	265	2
Florida	180	10
Ohio	172	
South Carolina	162	
Mississippi	155	1
Pennsylvania	152	
Louisiana	139	6
Alabama	136	1
Arkansas	118	
Kentucky	103	
Virginia	94	2
Tennessee	93	
Illinois	90	
New Jersey	74	
Maryland	68	
Missouri	62	
Oklahoma	60	
Washington	47	
Colorado	47	
Indiana	42	1
West Virginia	40	
District of Columbia	40	
Arizona	38	
Federal system	33	
Nevada	30	1
Massachusetts	27	
Connecticut	21	
Oregon	19	
Iowa	18	
Kansas	15	
Utah	14	1
Delaware	12	
New Mexico	8	
Wyoming	7	
Montana	6	
Vermont	4	
Nebraska	4	
Idaho	3	
South Dakota	1	
New Hampshire	1	
Wisconsin	0	
Rhode Island	0	
North Dakota	0	
Minnesota	0	
Michigan	0	
Maine	0	
Hawaii	0	
Alaska	0	

Since 1977, a total of 2,233 offenders have been under a death sentence for varying periods of time (table 11). There were 32 executions and 796 removals for other reasons (most because the State statute or their particular

**Table 11. Proportion of those under sentence of death who were executed or received other dispositions, by race, 1977-1984**

Race	Total under sentence of death 1977-1984 <sup>a</sup>	Prisoners executed		Prisoners who received other dispositions <sup>b</sup>	
		Number	Percent of total	Number	Percent of total
All <sup>c</sup>	2,233	32	1.4%	796	35.7%
White	1,271	22	1.7	445	35.0
Black	941	10	1.1	346	36.8

<sup>a</sup> Those under sentence of death at the beginning of 1977 plus all new admissions under sentence of death between 1977 and 1984.

<sup>b</sup> Other dispositions include cases removed from a sentence of death due to statutes struck down on appeal, sentences/convic-

tions vacated, commutations, or death other than by execution (of the 796 removals, 28 resulted from death during confinement—10 from natural causes, 13 by suicide, 2 during escapes, 3 by other inmates).

<sup>c</sup> Includes persons classified as other races.

**Table 12. Time elapsed from sentencing to execution, by race, 1977-1984**

Race	Number of offenders who were executed after:							Total	Average elapsed time
	1 year or less	1.1 to 3 years	3.1 to 5 years	5.1 to 7 years	7.1 to 9 years	9.1 to 11 years	11 years		
All	1	4	8	6	8	5	32	6.0 years	
White	1	2	5	6	6	2	22	5.8	
Black	0	2	3	0	2	3	10	6.6	

sentence was overturned). A slightly higher proportion of whites than blacks were executed during this period; removal rates for the two races were virtually identical.

Of those executed since 1977, five were under a sentence of death for 3 years or less and five for 8 years or longer (table 12). The average for the 32 executed offenders was 6 years. For executed whites the average amount of time under a sentence of death was about 10 months less than for executed blacks. (For additional discussion of race and capital punishment see the appendix.)

#### Methodological note

The statistics reported in this bulletin may differ from data collected by other organizations for any of the following reasons: (1) Inmates are not added to the National Prisoner Statistics death-row counts at the time the court hands down the sentence, but rather when they are admitted to a State or Federal correctional facility. (2) Inmates sentenced to death under statutory provisions later found unconstitutional are removed from the death-row count on the date of the relevant court finding rather than on the date the finding is applied to the individual case. Thus, persons who are technically still under a sentence of death but who are no longer at risk are not counted. (3) NPS death-row counts are always for the last day of the calendar year and thus will differ from counts for more recent periods.

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**Appendix**  
**Race and capital punishment**

**Race of offender.** One of the key issues involved in the contemporary debate on capital punishment is whether the death penalty is applied in a way that unfairly discriminates against blacks and other minorities. Several members of the Supreme Court majority in *Furman v. Georgia* specifically cited this issue in overturning the death penalty in 1972.

There is no dispute that the proportion of blacks under sentence of death in the United States (42% at yearend 1984) is much higher than the proportion of blacks in the general population (12%). This difference alone, however, does not prove discrimination against blacks, just as the fact that males constitute 99% of those under sentence of death does not, in itself, demonstrate discrimination against males. Much more relevant is how the population of those under sentence of death compares with those who actually commit capital offenses.

Each State with a capital punishment statute specifies which particular kinds of homicide merit the possible imposition of the death penalty, for example, multiple murders, murders of a police officer or prison guard, or murders in the commission of another felony (table 1). "Capital" homicides constitute only a fraction of all homicides. There are, however, no national data on the racial composition of those arrested for capital murder. Nonetheless, the FBI does report information on the race of those arrested for murder and nonnegligent manslaughter in the annual Uniform Crime Reports. The FBI data can be used to compare the racial distribution of those arrested for murder and nonnegligent manslaughter with those admitted to prison for murder, those admitted under a sentence of death, and those executed (table A-1).

For each of the years 1980 through 1984, blacks constituted a somewhat higher proportion of those arrested for murder and nonnegligent manslaughter than of those admitted to prison under a sentence of death. For the 5 years together, blacks were 48.5% of adults arrested for murder and nonnegligent manslaughter and 40.9% of those admitted to prison under a sentence of death. Whites, on the other hand, were 50.2% of those arrested and 57.9% of those entering prison with a death sentence.

Put somewhat differently, for every

**Table A-1. Comparison of racial distribution of homicide arrestees, prison admissions for homicide, admissions under sentence of death, and executions, 1980-84**

	Percent of total		Number
	White	Black	
<b>1980</b>			
Homicide arrests of adults	50.2%	48.3%	18,162
Prison admissions for homicide	...	...	...
Admissions under sentence of death	62.0	37.5	200
Executions	0	0	0
<b>1981</b>			
Homicide arrests of adults	49.8%	48.9%	19,605
Prison admissions for homicide	...	...	...
Admissions under sentence of death	52.4	46.0	250
Executions	100.0	0	1
<b>1982</b>			
Homicide arrests of adults	48.9%	49.6%	20,043
Prison admissions for homicide	51.6	46.3	9,060
Admissions under sentence of death	57.7	40.8	284
Executions	50.0	50.0	2
<b>1983</b>			
Homicide arrests of adults	49.0%	49.6%	18,749
Prison admissions for homicide	54.9	44.4	8,218
Admissions under sentence of death	59.5	39.8	259
Executions	80.0	20.0	5
<b>1984</b>			
Homicide arrests of adults	53.7%	44.9%	16,436
Prison admissions for homicide	...	...	...
Admissions under sentence of death	58.6	40.0	280
Executions	61.9	38.1	21
<b>Total, 1980-84</b>			
Homicide arrests of adults	50.2%	48.4%	93,035
Prison admissions for homicide (1982-83)	53.2	45.4	17,278
Admissions under sentence of death	57.9	40.9	1,273
Executions	65.5	34.5	29

**Note:** Homicide is defined as murder and non-negligent manslaughter.  
... Data not available.  
**Sources:** Crime in the United States, 1980-84, Federal Bureau of Investigation; National Corrections Reporting Program on prison admissions for 1982-83; and National Prisoner Statistics series on prisoners under sentence of death, 1980-84.

**Table A-2. Prisoners under sentence of death per 1,000 arrests for homicide and per 1,000 prison inmates, by race, 1980-84**

Year	Prisoners admitted under sentence of death per 1,000 arrests for homicide			Prisoners under sentence of death per 1,000 prison inmates		
	White	Black	Total	White	Black	Total
1980	13.6	8.5	11.0	2.7	1.9	2.3
1981	13.4	12.0	12.8	2.9	2.2	2.5
1982	16.7	11.7	14.2	3.1	2.5	2.8
1983	16.7	11.1	13.8	3.4	2.7	3.0
1984	18.6	15.2	17.0	...	...	...
Total	15.8	11.6	13.7	2.7	2.3	2.7

... Data not available.  
**Sources:** Crime in the United States, 1980-84, Federal Bureau of Investigation; and National Prisoners Statistics, 1980-84.

1,000 adult whites arrested for murder and nonnegligent manslaughter for the 5 years, 1980-84, there were 15.8 admissions to prison under a sentence of death; for every 1,000 blacks arrested, there were 11.6 admissions under a sentence of death (table A-2).

Finally, for each of the years with complete data (1980-83), a higher proportion of white prison inmates were under a sentence of death than black prison inmates. For the 4 years overall, 3.0 whites were under a sentence of death for every 1,000 whites in prison, compared to 2.1 blacks under sentence of death for every 1,000 blacks in prison.

**Race of victim.** Another issue that has been raised in recent years regarding racial patterns in capital punishment sentencing is whether the race of the victim, rather than the race of the offender, influences who is sentenced to death. Some have maintained that an offender who murders a white is more likely to be sentenced to death than one who murders a black. (See, for example, the discussion of *McClesky v. Kemp* above.)

Each year in its *Uniform Crime Reports* (published under the title, *Crime in the United States*) the FBI shows the racial distribution of the victims of murder and nonnegligent

manslaughter as reported by local police agencies. For the years 1980 to 1984, the distribution is as follows:

	White victims	Black victims
1980	53.3%	42.4%
1981	54.0	43.8
1982	55.4	42.3
1983	54.9	42.5
1984	56.2	41.1
Total	54.7	42.4

While whites constitute about 55% of murder and nonnegligent manslaughter victims, it is not clear that a similar percentage of white victims should be expected for offenders sentenced to death for murder.

Among the 37 States with capital punishment statutes, felony murders (or murders during the commission of another felony such as robbery or rape) are quite often distinguished as a specific type of homicide for which the death penalty may be imposed. The Uniform Crime Reports for 1980 to 1984 indicate that approximately 1 in 5 murders can be identified as a felony murder and two-thirds of these involved robbery or a sex offense. (By contrast, about half of homicides for which the motive was known resulted from an argument.) National Crime Survey data for 1982 reveal that an estimated 77% of rape and robbery victims were white and 89% of persons injured during a robbery were white (table A-3).<sup>5</sup>

While these data suggest that whites may constitute a greater proportion of felony murder victims than of all homicide victims, further research is needed to establish the degree to which such differences affect capital sentences.

<sup>5</sup>The National Crime Survey collects detailed information on criminal victimizations in the United States through interviews with a nationwide representative sample of approximately 125,000 Americans twice each year. The most recent published data are for 1982.

Table A-3. Distribution of rape and robbery, and robbery with injury victimizations, by race of victim and offender, 1982

	White offenders	Black offenders	Total
Rape and robbery victimizations <sup>a</sup>			
White victims	40%	37%	77%
Black victims	2	21	23
Total	42	58	100 <sup>b</sup>
Robbery with injury victimizations <sup>c</sup>			
White victims	50%	39%	89%
Black victims	0 <sup>e</sup>	12	12
Total	50	51	100 <sup>d</sup>

**Note:** Percents may not add to 100% due to rounding. Table excludes offenders of other races (less than 5% of all victimizations) and excludes mixed races in cases involving multiple offenders.  
**Source:** Criminal Victimization in the United States, 1982, tables 44 and 49, pp. 49 and 51.

<sup>a</sup> Includes single or multiple offenders.  
<sup>b</sup> Represents 1,258,706 victimizations reported by white and black victims.  
<sup>c</sup> Includes single offenders only.  
<sup>d</sup> Represents 171,985 victimizations reported by white and black victims.  
<sup>e</sup> Estimate based on 10 or fewer cases.

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(revised August 1985)

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