



# Bureau of Justice Statistics Bulletin

# Capital Punishment 1987

NCJRS

Eight States executed 25 prisoners during 1987, bringing the total number of executions to 93 since 1976, the year that the U.S. Supreme Court reinstated the death penalty. Those executed during 1987 had spent an average of 7 years and 2 months awaiting execution.

During 1987, 299 prisoners were received under sentence of death from the courts. Seventy-nine persons had their death sentences vacated or commuted during the year, and 11 died while under a death sentence. At year-end, 34 States reported a total of 1,984 prisoners under sentence of death; all but 1 had been convicted of murder (an inmate admitted during 1986 for the capital rape of a child in Mississippi). The median time since the death sentence was imposed for the 1,984 prisoners was 3 years and 7 months.

About 2 in 3 offenders under sentence of death for whom such information was available had a prior felony conviction; about 1 in 9 had a prior homicide conviction. About 2 in 5 condemned prisoners were in some criminal justice status at the time of the capital offense. Half of these were on parole; the rest were in prison, on escape from prison, or on probation, or they had charges pending against them.

The majority of those under sentence of death (1,138) were white (57.4%); 821 were black (41.4%); 16 were American Indian (.8%); and 9, Asian (.5%). Twenty-one of those under a death sentence were female (1.1%). The median age of all inmates under a death sentence was nearly 33 years.

About 62% of those under sentence of death were held by States in the South. Western States held an additional 18%; Midwestern States, 15%; and the Northeastern States of Connecticut, New Jersey, and Pennsylvania, more than 5%. Florida had the

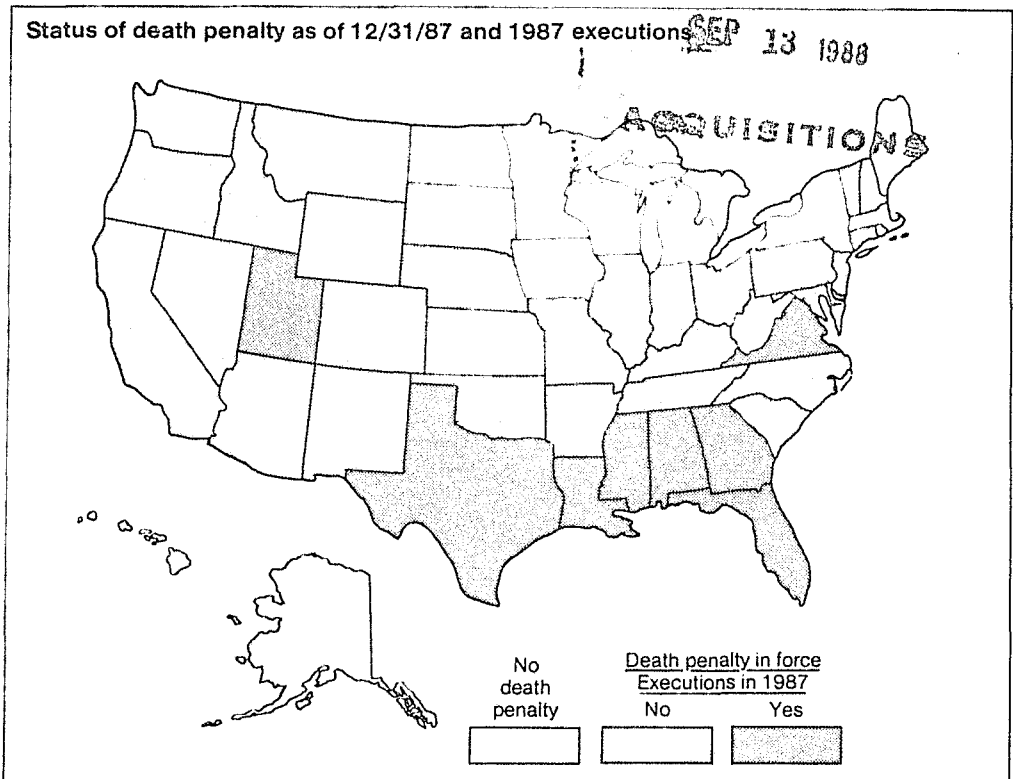


Figure 1

largest number of condemned inmates (277), followed by Texas (256), California (200), Georgia (116), and Illinois (108).

During 1987, 32 State prison systems received prisoners under sentence of death from the courts. Connecticut received its first inmate under sentence of death; the last Connecticut inmate under a death sentence died in prison in August 1973. Florida (44 admissions), Texas (36 admissions), and California (27 admissions) accounted for more than a third of the inmates entering prison under a death sentence during the year.

The 25 executions in 1987 were carried out by 8 States: 8 in Louisiana, 6 in Texas, 5 in Georgia, 2 in Mississippi, and 1 each in Alabama, Florida, Utah,

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The capital punishment statistical series has now completed 57 years of continuous Federal sponsorship. The series is designed to provide detailed national information on prisoners under death sentences. This year's report contains special appendices on the current status of all those sentenced to death between 1973 and 1987 and on Federal death penalty statutes contained in the United States Code. The Bureau of Justice Statistics gratefully acknowledges the cooperation and participation of officials throughout the States whose generous assistance makes this reporting program possible.

Steven R. Schlesinger  
Director

and Virginia. Thirteen of those executed were white males, and 12 were black males.

From the beginning of 1977 to the end of 1987, a total of 93 executions were carried out by 12 States. Over the same period, 2,743 admissions under sentence of death occurred (for 2,660 individuals), and 1,086 removals occurred as a result of dispositions other than executions (resentencing, retrial, commutation, or death while awaiting execution).

### Capital punishment in the courts

On January 27, 1987, the Supreme Court in *California v. Brown* handed down a decision relating to jury instructions on aggravating and mitigating circumstances during the penalty phase of a capital trial. After finding the defendant guilty of the forcible rape and murder of a 15-year-old, the jury received testimony from the defendant's family, a psychiatrist, and the defendant regarding his usual behavior and psychological problems. The trial court advised the jury to consider the mitigating evidence presented by the defendant but cautioned them to "not be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling." The defendant was subsequently sentenced to death.

On appeal to the Supreme Court of California, the death sentence was reversed based upon the conclusion that the trial court's instruction denied the defendant the right to have the jury weigh the "sympathy factor" raised by the testimony during the penalty phase. The High Court, however, concluded that the use of the term "mere sympathy" in the instruction was simply a directive to the jury to focus on the evidence presented in aggravation and mitigation and to ignore extraneous emotional factors, and it violated neither the eighth nor the fourteenth amendment. The decision of the California Supreme Court was reversed, and the case was remanded for further proceedings.

In *Tison v. Arizona* (decided April 21, 1987) the Supreme Court dealt with the issue of capital sentencing for accomplices to felony murder. In July 1978 three brothers entered the Arizona State Prison armed with a large number of weapons and effected the escape of their father and his cellmate. The automobile in which they were riding broke down, and a passing automobile occupied by two adults and two children was flagged down for as-

Persons under sentence of death, 1953-87

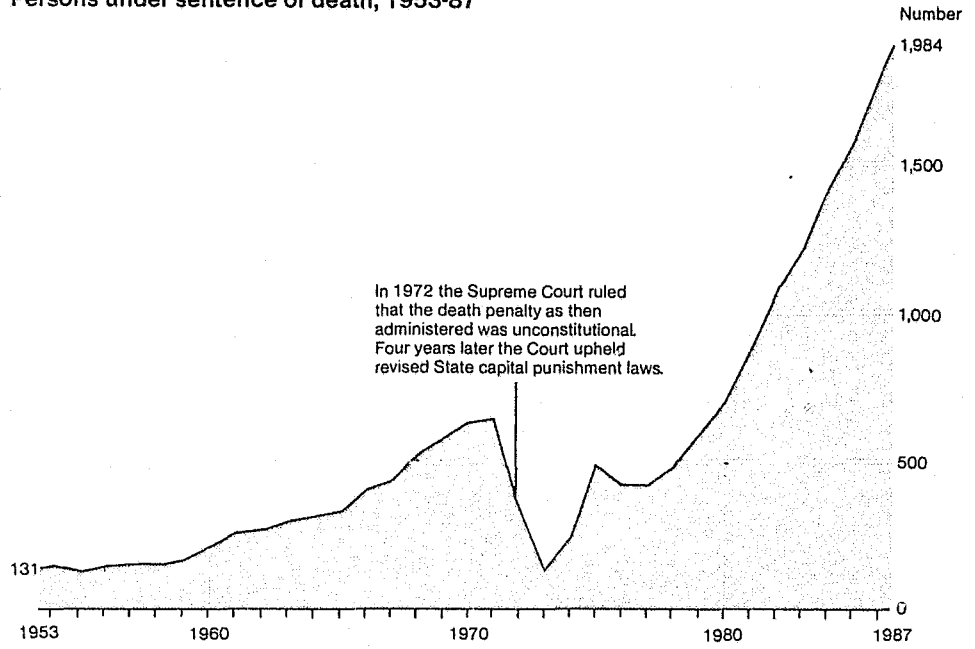


Figure 2

sistance. The two prison escapees subsequently murdered its occupants.

Two of the brothers were convicted of four murders each under the accomplice liability and felony-murder statutes of the State. The trial judge found three statutory aggravating circumstances present, including one that defined conduct that created a grave risk of death to others, and he imposed capital sentences for each. The Arizona Supreme Court, in its review, upheld two of the aggravating circumstances and the death sentence; only the "grave risk to others" circumstance was found to be unsupported by the evidence. In a subsequent post-conviction challenge, the Arizona Supreme Court also concluded that the requisite "intent to kill" for accomplices was also satisfied by the defendants' active role in the prison breakout and abduction of the victims.

The U.S. Supreme Court upheld the death sentences, but it rejected the Arizona Supreme Court's interpretation of the "intent to kill" circumstance. It held that "reckless indifference to human life" in felony murder would satisfy eighth amendment concerns. The case was remanded for further proceedings by the State.

The Supreme Court addressed the issue of nonstatutory mitigating circumstances in *Hitchcock v. Dugger* (decided April 22, 1987). The death sentence was imposed in a Florida case arising from the strangulation murder of a 13-year-old female. In the penalty phase the sentencing judge instructed the advisory jury to consider only miti-

gating circumstances enumerated in statute and then indicated that his own deliberations were based exclusively on statutorily defined aggravating and mitigating circumstances. The Supreme Court reversed the death sentence, concluding that the sentencer may not refuse to consider any relevant mitigating evidence.

On April 22, 1987, the High Court in *McCleskey v. Kemp* dealt with the question of whether the capital sentencing process in Georgia was being administered in a racially biased manner in violation of the eighth and fourteenth amendments. The petition used statistical data on capital sentences imposed in Georgia to argue that black defendants who killed white victims have the highest probability of receiving a death sentence. The High Court rejected this claim, concluding that:

- (1) there was no evidence of racial discrimination by decisionmakers in the petitioner's case;
- (2) there was no evidence that the legislature of Georgia adopted or maintained capital punishment for racially discriminatory purposes; and
- (3) there was no merit to the argument that the sentence was disproportionate, arbitrary, or capriciously imposed.

*Arizona v. Mauro* (decided May 4, 1987) addressed the issue of fifth amendment protection against self-incrimination. The petitioner, convicted of child abuse and the murder of his son and sentenced to death, had been taken into custody by police and was twice warned of his Miranda rights. While in the police station, his wife

requested an opportunity to talk with him. The police agreed to the meeting with the stipulation that a police officer would be present, with a tape recorder, to safeguard against potential violence or an escape attempt and to assure that there was no attempt to exchange statements about the crime. The tape-recorded meeting was subsequently used as evidence to rebut the defendant's claim of insanity at the time of the offense. The Arizona Supreme Court reversed the death sentence, concluding that the police had violated Miranda and impermissibly interrogated the defendant. The High Court, however, held that the actions by the police did not constitute an interrogation and that the defendant's statements had been voluntary.

**Gray v. Mississippi** (decided May 18, 1987) dealt with the issue of juror selection in a Mississippi kidnaping-murder case. During the voir dire proceeding, the trial judge in eight instances rejected motions by the prosecutor to dismiss for cause jurors who had indicated hesitancy about their ability to impose the death penalty. As a result, the prosecutor utilized peremptory challenges to remove these potential jurors. Subsequently, the judge accepted the prosecutor's motion to remove for cause, after he had exhausted all of his peremptory challenges, a prospective juror who, though initially confused about the death penalty, indicated she could impose it. The trial judge acknowledged that he had made the prosecutor use peremptory challenges to reject potential jurors opposed to the death penalty. The Mississippi Supreme Court ultimately upheld the conviction and death sentence, concluding that, although the juror was not excludable for cause, the result was simply to correct previous errors in not permitting earlier juror challenges for cause. The High Court, however, found that the process was flawed since the composition of the entire jury panel could have been affected by the error, and the case was remanded for further proceedings.

Another issue addressed by the Supreme Court during the year was the use of victim impact statements during the sentencing phase of a capital murder trial. In **Booth v. Maryland** (reported June 15, 1987), a double robbery-murder case involving elderly victims, a victim impact statement was prepared, in accordance with Maryland law, by the Division of Probation and Parole. The report contained information drawn from interviews with family members of the victims. The defendant's counsel moved to suppress the report, contending that its use violated the eighth amendment because of its

inflammatory content. The trial court, however, permitted the victim impact statement to be read to the jury by the prosecutor. The Maryland Court of Appeals ultimately upheld the death sentence that was imposed. The High Court, however, struck down the use of such statements in capital cases, concluding that such statements shifted the focus of sentencing away from the defendant's record and character, depended too heavily on the ability of family members to express their grief, and may result in a "minitrial" on the victim's character.

In **Sumner v. Sherman** (decided June 22, 1987) the Supreme Court struck down a Nevada statute that imposed a mandatory death sentence for murder committed by an inmate serving a life sentence without possibility of parole. The Court's decision noted that capital sentences could only be imposed after consideration of relevant mitigating circumstances, if any, and that mandatory death sentences for life prisoners violated the eighth and fourteenth amendments.

The double jeopardy clause of the fifth amendment was a central issue in **Ricketts v. Adamson** (decided June 22, 1987), an Arizona capital murder case arising from the fatal bombing of a reporter. Originally, the defendant pleaded guilty to a plea-bargained charge of second-degree murder after agreeing to testify against other parties involved in the murder, and he received a confinement sentence of 20 years and 2 months. The plea agreement provided that the original first-degree murder charge would be reinstated if the defendant failed to testify against the other parties. At the trial of the other individuals, the respondent did provide the requisite testimony, and they were convicted. However, the Arizona Supreme Court later reversed these convictions and ordered new trials. The respondent subsequently refused to testify at pretrial proceedings against these other participants, contending that his obligation under the plea agreement had been satisfied. The prosecutor subsequently filed an information charging him with first-degree murder. The Arizona Supreme Court, despite a motion to reject the information on double jeopardy grounds, vacated the second-degree murder conviction and reinstated the first-degree murder charges. The respondent was ultimately convicted and sentenced to death, and the death sentence was upheld on appeal to the Arizona Supreme Court. The Court of Appeals, however, concluded that the State had violated his double jeopardy protection and had not waived such rights under

the original plea agreement. The Supreme Court reversed the finding of the Court of Appeals, concluding that the respondent had breached his promises to testify and could be prosecuted again since second-degree murder was a lesser included offense of first-degree murder.

**Burger v. Kemp** (decided June 26, 1987) dealt with the sixth amendment issue of the effectiveness of counsel in a Georgia case. The petitioner was convicted, along with another individual, of the abduction, robbery, sodomy, and murder of a taxi driver and was sentenced to death. Throughout the trial and initial appeal, the petitioner was represented by an appointed counsel whose law partner had been appointed to represent the other individual involved in the murder. At each trial, the defense strategy was to emphasize the coindictee's greater culpability in the crimes. At the sentencing phase, defense counsel did not offer any evidence of mitigating circumstances. With a new attorney, the petitioner sought relief from the death sentence on the grounds of inadequate counsel, claiming a conflict of interest arose when the law partners each represented the two defendants and because no mitigating evidence was offered at sentencing.

The District Court and the Court of Appeals both rejected the defendant's claim of ineffective representation. The Supreme Court in its review concluded that overlapping counsel did not in and of itself violate constitutional guarantees of effective counsel and that the original attorney had adequately investigated the possibility of presenting mitigating evidence.

## Capital punishment laws

At yearend 1987 the death penalty was authorized by the statutes of 37 States and by Federal statute (table 1).<sup>1</sup> During 1987 there were no successful challenges to the constitutionality of State death penalty laws, and no State enacted any new legislation authorizing capital punishment.

## Statutory changes

Nine States altered their existing death penalty statutes during 1987. Four States, Colorado, Illinois, Maryland, and Montana, revised the enumerated aggravating circumstances to be considered at the sentencing phase of a capital trial. Colorado added felony murder as an aggravating circumstance; Illinois amended the multiple murder circumstance to include acts that would be likely to cause death or great bodily harm as aggravating situations; Maryland expanded the definition of law enforcement officers used in their listing of

aggravating conditions; and Montana added the death of a kidnaping victim or a person rescuing a kidnaping victim. Indiana added both an aggravating and a mitigating circumstance to its statutes. Murder of a victim younger than 12 years old was included as an aggravating factor, and an offender younger than 18 at the time of the capital offense was to be considered a mitigating factor.

Four States amended their laws relating to the minimum age at the time of an offense for which a person could be sentenced to death. Indiana and Kentucky raised the age to 16, North Carolina set the minimum age at 17, and Maryland enacted a minimum age of 18. Other amendments during the year included:

- Maryland created the sentencing option of life without possibility of parole for first-degree murder convictions;
- New Hampshire changed the method of execution from hanging to lethal injection; and
- Washington modified procedures for reissuing death warrants after the passage of an execution date.

<sup>1</sup>See Appendix II for a listing of all Federal death penalty statutes currently in existence.

Table 1. Capital offenses, by State, 1987

<b>Alabama.</b> Murder during kidnaping, robbery, rape, sodomy, burglary, sexual assault, or arson; murder of peace officer, correctional officer, or public official; murder while under a life sentence; murder for pecuniary gain or contract murder; multiple murders; aircraft piracy; murder by a defendant with a previous murder conviction; murder of a witness to a crime (13A-5-40).	<b>Kentucky.</b> Aggravated murder; kidnaping when victim is killed.	purposeful killing or prior attempted murder; murder of a peace officer; murder arising from specified felonies (rape, kidnaping, arson, robbery, burglary); murder of a witness to prevent testimony in a criminal proceeding.
<b>Arizona.</b> First-degree murder.	<b>Louisiana.</b> First-degree murder.	<b>Oklahoma.</b> Murder with malice aforethought; murder arising from specified felonies (forcible rape, robbery with a dangerous weapon, kidnaping, escape from lawful custody, first-degree burglary, arson); murder when the victim is a child who has been injured, tortured, or maimed.
<b>Arkansas.</b> Capital murder as defined by Arkansas statute (5-10-101).	<b>Maryland.</b> First-degree murder, either premeditated or during the commission of a felony.	<b>Oregon.</b> Aggravated murder.
<b>California.</b> Treason; aggravated assault by a prisoner serving a life term; first-degree murder with special circumstances; train wrecking.	<b>Mississippi.</b> Capital murder includes murder of a peace officer or correctional officer, murder while under a life sentence, murder by bomb or explosive, contract murder, murder committed during specific felonies (rape, burglary, kidnaping, arson, robbery, sexual battery, unnatural intercourse with a child, nonconsensual unnatural intercourse), and murder of an elected official; capital rape is the forcible rape of a child under 14 years old by a person 18 years or older; aircraft piracy.	<b>Pennsylvania.</b> First-degree murder.
<b>Colorado.</b> First-degree murder; first-degree kidnaping with death of victim; felony murder.	<b>Missouri.</b> First-degree murder (565.020 RSMO).	<b>South Carolina.</b> Murder with statutory aggravating circumstances.
<b>Connecticut.</b> Murder of a public safety or correctional officer; murder for pecuniary gain; murder in the course of a felony; murder by a defendant with a previous conviction for intentional murder; murder while under a life sentence; murder during a kidnaping; illegal sale of cocaine, methadone, or heroin to a person who dies from using these drugs; murder during first-degree sexual assault; multiple murders.	<b>Montana.</b> Deliberate homicide; aggravated kidnaping when victim or rescuer dies; attempted deliberate homicide, aggravated assault, or aggravated kidnaping by a State prison inmate with a prior conviction for deliberate homicide or who has been previously declared a persistent felony offender.	<b>South Dakota.</b> First-degree murder; kidnaping with gross permanent physical injury inflicted on the victim; felony murder.
<b>Delaware.</b> First-degree murder with aggravating circumstances.	<b>Nebraska.</b> First-degree murder.	<b>Tennessee.</b> First-degree murder.
<b>Florida.</b> First-degree murder.	<b>Nevada.</b> First-degree murder.	<b>Texas.</b> Murder of a public safety officer, fireman, or correctional employee; murder during the commission of specified felonies (kidnaping, burglary, robbery, aggravated rape, arson); murder for remuneration; multiple murders; murder during prison escape; murder by a State prison inmate.
<b>Georgia.</b> Murder; kidnaping with bodily injury when the victim dies; aircraft hijacking; treason.	<b>New Hampshire.</b> Contract murder; murder of a law enforcement officer; murder of a kidnaping victim.	<b>Utah.</b> First-degree murder.
<b>Idaho.</b> First-degree murder; aggravated kidnaping.	<b>New Jersey.</b> Purposeful or knowing murder; contract murder.	<b>Vermont.</b> Murder of a police officer or correctional officer; kidnaping for ransom.
<b>Illinois.</b> Murder.	<b>New Mexico.</b> First-degree murder (30-2-1A NMSA).	<b>Virginia.</b> Murder during the commission of specified felonies (abduction, armed robbery, rape); contract murder; murder by a prisoner while in custody; murder of a law enforcement officer; multiple murders; murder of a child under 12 years old during an abduction.
<b>Indiana.</b> Murder.	<b>North Carolina.</b> First-degree murder.	<b>Washington.</b> Aggravated first-degree premeditated murder.
	<b>Ohio.</b> Assassination; contract murder; murder during escape; murder while in a correctional facility; murder after conviction of a prior	<b>Wyoming.</b> First-degree murder including felony murder.

**Method of execution**

At yearend 1987 lethal injection (18 States) and electrocution (14 States) were the most common methods of execution authorized (table 2). Seven States authorized lethal gas; two States, hanging; and two States, a firing squad. Six States authorized more than one method--lethal injection and an alternative method--generally at either the election of the condemned prisoner or based upon the date of sentencing.

Some States have stipulated an alternative to lethal injection, anticipating that it may be found unconstitutional. Each of the other four methods, previously challenged on Eighth Amendment grounds as cruel and unusual punishment, has been found to be constitutional. The method of execution for Federal offenders is that of the State in which the execution takes place.

**Automatic review**

Of the 37 States with capital punishment statutes at yearend 1987, 34 provided for an automatic review of all death sentences. Arkansas, Florida, and Vermont had no specific provisions for automatic review. In most States automatic review is conducted regardless of the defendant's wishes. While most of the 34 States authorize automatic review of both conviction and sentence, Idaho and Indiana require review of the sentence only. 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 for retrial. It is possible that, as a result of retrial or resentencing, the death sentence may be reimposed.

**Minimum age**

A total of 26 States specify a minimum age at the time of the offense for which the death penalty may be imposed (table 3). 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 may be transferred to criminal court for trial as an adult. The most frequently specified age is 18 years (11 States). Eleven States and the Federal system report no minimum age.

**Table 2. Method of execution, by State, 1987**

Lethal injection	Electrocution	Lethal gas	Hanging	Firing squad
Arkansas	Alabama	Arizona	Montana	Idaho <sup>a</sup>
Delaware	Connecticut	California	Washington <sup>a</sup>	Utah <sup>a</sup>
Idaho <sup>a</sup>	Florida	Colorado <sup>a</sup>		
Illinois	Georgia	Maryland		
Mississippi <sup>b</sup>	Indiana	Mississippi <sup>b</sup>		
Montana <sup>a</sup>	Kentucky	Missouri <sup>c</sup>		
Nevada	Louisiana	North Carolina <sup>a</sup>		
New Hampshire <sup>c</sup>	Nebraska			
New Jersey	Ohio			
New Mexico	Pennsylvania			
North Carolina <sup>a</sup>	South Carolina			
Oklahoma	Tennessee			
Oregon	Vermont			
South Dakota	Virginia			
Texas				
Utah <sup>a</sup>				
Washington <sup>a</sup>				
Wyoming				

<sup>a</sup>Authorizes two methods of execution.  
<sup>b</sup>Mississippi authorizes lethal injection for those convicted after 7/1/84; executions of those convicted prior to that date are to be carried out with lethal gas.  
<sup>c</sup>Lethal injection authorized effective 1/1/87.  
<sup>d</sup>Lethal injection authorized effective 7/1/88.  
<sup>e</sup>Lethal injection authorized effective 7/29/88.

**Table 3. Minimum age authorized for capital punishment, yearend 1987**

12 years	Montana
13 years	Georgia Mississippi
14 years	Alabama Connecticut Missouri
15 years	Arkansas Louisiana Virginia
16 years	Indiana <sup>a</sup> Kentucky <sup>b</sup> Nevada
17 years	New Hampshire North Carolina <sup>c</sup> Texas
18 years	California Colorado Illinois Maryland <sup>d</sup> Nebraska New Jersey New Mexico Ohio Oregon South Dakota <sup>e</sup> Tennessee
No minimum age specified	Federal system Arizona Delaware Florida Idaho Oklahoma Pennsylvania South Carolina Utah Vermont Washington Wyoming

<sup>a</sup>Effective 9/1/87 (IC 35-50-2-3(b)).  
<sup>b</sup>Effective 7/1/87 (KRS 640.040).  
<sup>c</sup>Effective 7/29/87 (GS 14-17) may also be applied to those age 14 and above convicted of murder while incarcerated or escaping from incarceration.  
<sup>d</sup>Effective 7/1/87 (Article 27, Section 412(f)).  
<sup>e</sup>May be certified as an adult between ages 10 and 17.

**Table 4. Prisoners under sentence of death, by region and State, yearend 1986 and 1987**

Region and State	Prisoners under sentence 1986	Changes during 1987			Prisoners under sentence 1987
		Received under sentence	Removed from death row (excluding executions)	Executed	
<b>U.S. total</b>	1,800	299	90 <sup>a</sup>	25	1,984
Federal <sup>b</sup>	0	0	0	0	0
State	1,800	299	90	25	1,984
<b>Northeast</b>	97	22	10	0	109
Connecticut	0	1	0	0	1
New Hampshire	0	0	0	0	0
New Jersey	23	8	3	0	28
Pennsylvania	74	13	7	0	80
Vermont	0	0	0	0	0
<b>Midwest</b>	269	36	8	0	297
Illinois	101	11	4	0	108
Indiana	40	4	0	0	44
Missouri	43	9	0	0	52
Nebraska	14	0	1	0	13
Ohio	71	12	3	0	80
South Dakota	0	0	0	0	0
<b>South</b>	1,123	186	64	24	1,221
Alabama	84	14	7	1	90
Arkansas	26	4	2	0	28
Delaware	5	1	0	0	6
Florida	254	44	20	1	277
Georgia	110	15	4	5	116
Kentucky	31	3	2	0	32
Louisiana	46	9	5	8	42
Maryland	18	1	2	0	17
Mississippi	44	12	4	2	50
North Carolina	63	16	3	0	76
Oklahoma	72	15	1	0	86
South Carolina	47	1	3	0	45
Tennessee	54	9	1	0	62
Texas	235	36	9	6	256
Virginia	34	6	1	1	38
<b>West</b>	311	55	8	1	357
Arizona	62	12	1	0	73
California	176	27	3	0	200
Colorado	1	2	0	0	3
Idaho	14	0	1	0	13
Montana	5	1	0	0	6
Nevada	35	5	2	0	38
New Mexico	0	2	0	0	2
Oregon	2	3	0	0	5
Utah	7	1	0	1	7
Washington	7	1	0	0	8
Wyoming	2	1	1	0	2

Note: States not listed and the District of Columbia did not have the death penalty as of 12/31/86. Some of the figures shown for yearend 1986 are revised from those shown in *Capital Punishment, 1986*, NCJ-106483. The revised figures include 25 inmates who were either reported late to the National Prisoner Statistics program or who were not in the custody of State correctional authorities as of 12/31/86 (2 in Ohio, 1 in Delaware, 2 in Tennessee, 1 in Alabama, 7 in Mississippi, 7 in Louisiana, 3 in Arizona, 1 in Georgia, and 1 in Virginia) and exclude 6 inmates relieved of the death

sentence on or before 12/31/86 (2 in Georgia and 1 each in Tennessee, Mississippi, Texas, and Wyoming).

<sup>a</sup>Includes four deaths that were suicides (one each in Virginia, Florida, Wyoming, and Nevada); one inmate in Tennessee murdered by another; one inmate in Illinois died of cocaine overdose; and five deaths due to natural causes (one each in Pennsylvania, Georgia, Florida, Texas, and Alabama).

<sup>b</sup>Excludes two males held under Armed Forces jurisdiction with a military death sentence for murder.

**Prisoners under sentence of death at yearend 1987**

A total of 34 States reported 1,984 persons under sentence of death on December 31, 1987, an increase of 184 or 10.2% over the count at the end of 1986 (table 4). States with the largest number of prisoners under sentence of death were Florida (277), Texas (256), California (200), Georgia (116), and Illinois (108).

Although 37 States (covering 77% of the Nation's adult population) had statutes authorizing the death penalty, 3 of these reported no prisoners under sentence of death at yearend (New Hampshire, South Dakota, and Vermont).

Of the 1,984 persons under sentence of death, more than three-fifths (62%) were in the South, 18% were in Western States, 15% were in the Midwest, and 5% were in the Northeastern States of Connecticut, New Jersey, and Pennsylvania.

Nearly 99% of those under a sentence of death were male, and the majority were white (57.4%) (table 5). Blacks constituted 41.4% of those under death sentences, and another 1.3% were American Indians or Asian Americans. The States reported a total of 117 Hispanics under a death sentence, 6% of the total. The largest numbers of Hispanics were held in States with relatively large Hispanic populations: Texas (35), California (25), Florida (17), Arizona (12), and Illinois (9).

The median age of those under sentence of death was nearly 33 years. About .5% were under age 20, and 2% were 55 or older. The youngest offender under sentence of death was 16 years old (born May 1971); the oldest was 76 years old (born October 1911). About 1 in 10 of the inmates for whom information on education was available had not gone beyond seventh grade, but nearly the same percentage had some college education. The median level of education was almost 11 years. Less than a third of the condemned inmates for whom data on marital status were available were married.

The 21 women under sentence of death at yearend 1987 were held in 13 States; Florida's 5 female inmates were the most of any State (table 6). Since 1977, one woman has been executed.

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

During 1987, 32 State prison systems reported receiving prisoners under sentence of death. Florida reported the

largest number (44), followed by Texas (36), California (27), and North Carolina (16).

Of the 299 prisoners received under sentence of death:

- All were convicted of murder;
- 185 were white males, 106 were black males, 5 were white females, 2 were male American Indians, and 1 was a male Asian; and
- 18 were Hispanic.

Eighteen States reported a total of 79 persons whose sentences of death were vacated or commuted. Florida (18), Texas (8), and Pennsylvania (6) reported the largest numbers of such exits.

Of the 79 persons whose death sentences were vacated or commuted during 1987:

- 46 had their sentences vacated but convictions upheld;
- 28 had both their convictions and sentences vacated; and
- 5 had their sentences commuted, including 4 prisoners under death sentences in Texas.

At yearend, 53 of the 79 persons were serving reduced sentences (50 to life imprisonment), 13 were awaiting new trials, 7 were awaiting resentencing, 3 were subsequently found not guilty after retrial, and 3 had further prosecution dropped.

In addition, 11 persons died while under sentence of death in 1987. Florida, Nevada, Virginia, and Wyoming each reported one death by suicide; Tennessee reported one inmate murdered by another inmate; Illinois reported one death due to an apparent cocaine overdose; and five States each reported one death due to natural causes (Alabama, Florida, Georgia, Pennsylvania, and Texas).

From 1977, the year after the Supreme Court reinstated the death penalty, through 1987, there were a total of 2,743 admissions to State prisons under a sentence of death; 1,086 releases from a death sentence occurred over the same period as a result of appellate court actions, commutations, or death while under sentence; and 93 persons were executed. Among death sentence admissions, 1,590 (58%) were white, 1,117 (40.7%) were black, and 36 (1.3%) were classified as other races. Among those released other than by execution, 620 (57.1%) were white, 455 (41.9%) were black, and 11 (1%) were classified as other races. Of the 93 executed, 57 (61.3%) were white, and 36 (38.7%) were black.

**Table 5. Demographic profile of prisoners under sentence of death, 1987**

	Yearend 1987	1987 admissions	1987 removals
Total number under sentence of death	1,984	299	115
<b>Sex</b>			
Male	98.9%	98.3%	98.3%
Female	1.1	1.7	1.7
<b>Race</b>			
White	57.4%	63.6%	56.5%
Black	41.4	35.5	40.9
Other <sup>a</sup>	1.3	1.0	2.6
<b>Ethnicity</b>			
Hispanic	6.6%	7.0%	8.7%
Non-Hispanic	93.4	93.0	91.3
<b>Age<sup>b</sup></b>			
Less than 20 years	.5%	2.0%	.9%
20-24	11.2	25.1	13.0
25-29	25.8	28.1	20.0
30-34	23.0	16.3	21.7
35-39	17.6	13.4	20.9
40-54	19.9	14.1	21.7
55+	2.0	1.0	1.7
Median age	32.7 years	28.1 years	33.0 years
<b>Education</b>			
7th grade or less	10.2%	9.3%	11.7%
8th	10.3	7.4	11.7
9th-11th	36.7	37.8	35.9
12th	33.3	35.9	33.0
Any college	9.5	9.6	7.8
Median education	10.6 years	10.8 years	10.8 years
<b>Marital status</b>			
Married	30.3%	23.0%	22.0%
Divorced/separated	22.3	26.3	18.4
Widowed	2.0	2.2	4.6
Never married	45.4	48.5	55.0

Note: Percentage and median calculations are based on those cases for which data were reported. Ethnicity data were not reported for 216 prisoners at yearend 1987, 41 prisoners admitted in 1987, and 11 prisoners removed in 1987. Education data were not reported for 210 prisoners at yearend 1987, 29 prisoners admitted in 1987, and 12 prisoners removed in 1987. Data on marital status were not reported for 89 prisoners at yearend 1987, 25 prisoners admitted in 1987, and 6 prisoners

removed in 1987.

<sup>a</sup>Consists of 16 American Indians and 9 Asians present at the end of 1987, 2 American Indians and 1 Asian admitted during the year, and 2 American Indians and 1 Asian removed during 1987.

<sup>b</sup>The youngest person under sentence of death was a black inmate in Louisiana born in May 1971. The oldest was a white inmate in Kentucky born in October 1911.

**Table 6. Number of women on death row, by State, yearend 1972-87**

State	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
U.S. total	4	3	3	8	7	6	5	7	9	11	14	13	17	17	18	21
California	3			1	2											
Georgia	1	2	1	1	1	1	1	2	3	4	4	3	2	2	1	1
North Carolina		1	2	3			2	1	1	1	1	1				
Ohio				2	3	4							2	2	1	1
Oklahoma				1				1	1	1	2	2	1	1	1	1
Florida					1	1	1	1	1			1	1	2	2	5
Alabama							1	1		1	1	2	2	2	2	2
Texas								1	2	2	2		1	2	2	2
Kentucky									1	1						1
Maryland										1	2	1	2	1	1	0
Mississippi										1	1	1	1	1	2	1
Nevada											1	1	2	2	1	1
New Jersey													1	1	1	1
Arkansas													1			0
Idaho													1			0
Indiana														1	3	3
Tennessee															1	1



**Criminal history of inmates under sentence of death in 1987**

Among those under sentence of death at yearend 1987 for whom criminal history information was available, 68% had a history of felony convictions (table 7). Among those for whom information on prior homicide convictions was available, 11% had a previous conviction for that crime.

Among those for whom legal status at the time of the capital offense was reported, about 40% had an active criminal justice status: Half of these were on parole, while the rest had charges pending, were on probation, or were prison inmates or escapees. Excluding those with pending charges, a total of 1 in 3 were already under sentence for another crime when the offense for which they were condemned occurred; in a number of States such status is considered an aggravating factor in capital sentencing.

The criminal history patterns were similar for whites and blacks, although somewhat higher percentages of blacks than whites had prior felony convictions, had 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, 3,952 executions have been conducted under civil authority (table 8).<sup>2</sup> Since the death penalty was reinstated by the Supreme Court in 1976,<sup>3</sup> the States have executed 93 persons:

1977--1	1984--21
1979--2	1985--18
1981--1	1986--18
1982--2	1987--25
1983--5	

A total of 12 States have carried out executions since 1977. During the period, 56 white males, 36 black males, and 1 white female have been executed. The largest number of executions occurred in Texas (26), Florida (17), Louisiana (15), and Georgia (12).

Since 1977 a total of 3,163 offenders have been under a death sentence for varying periods of time (table 9). There were 93 executions (2.9% of those at risk) and 1,086 removals (34.3% of those at risk) during this period. A slightly higher percentage of whites than blacks were executed (3.1% v. 2.7%), but removal rates for the two races were nearly identical (34.2% v. 34.7%).

For those executed since 1977, the average time between sentence imposition and execution was 6 years and 5 months (table 10). For the 25 prisoners executed during 1987, the average time spent under a death sentence was just over 7 years, about the same as those executed during the preceding year. Black prisoners executed during 1987 had spent an average of 8 years awaiting execution; whites, 6 years and 6 months.

<sup>2</sup>An additional 160 executions have been carried out under military authority since 1930.

<sup>3</sup>For the period 1977-87, the FBI reported 224,400 cases of murder and nonnegligent manslaughter and an estimated 217,120 arrests for these crimes. During the same period, 2,743 persons entered prison under sentence of death, and there were 93 executions. In 1987 there were 20,100 reported murders and nonnegligent manslaughters, 19,200 arrests, 299 persons who entered prison under a death sentence, and 25 executions.

**Table 7. Criminal history profile of prisoners under sentence of death, by race, 1987**

	Number under sentence of death			Percent of those under sentence of death <sup>a</sup>		
	All races <sup>b</sup>	White	Black	All races <sup>b</sup>	White	Black
<b>Prior felony conviction history</b>						
Yes	1,257	693	550	67.5%	64.8%	71.7%
No	605	377	217	32.5	35.2	28.3
Not reported	122	68	54			
<b>Prior homicide conviction history</b>						
Yes	193	98	91	11.2%	10.0%	12.8%
No	1,524	886	619	88.8	90.0	87.2
Not reported	267	154	111			
<b>Legal status at time of capital offense</b>						
Charges pending	99	60	37	5.8%	6.2%	5.3%
Probation	118	79	38	7.0	8.1	5.4
Parole	340	161	177	20.1	16.6	25.2
Prison escapee	36	24	12	2.1	2.5	1.7
Prison inmate	55	33	22	3.2	3.4	3.1
Other status <sup>c</sup>	22	13	8	1.3	1.3	1.1
None	1,024	600	408	60.4	61.9	58.1
Not reported	290	168	119			
<b>Median time elapsed since imposition of death sentence</b>	43 mos.	42 mos.	45 mos.			

<sup>a</sup>Percents are based on those offenders for whom data were reported.  
<sup>b</sup>Includes whites, blacks, and persons classified as members of other races.  
<sup>c</sup>Includes 4 persons on mandatory release, 2 on bail, 3 on furlough from prison, 1 for whom charges were pending from the U.S. Army, 1 in a local jail, 1 under house arrest, and 10 on work release/work furlough from prison.



**Table 8. Number of persons executed, by jurisdiction, in rank order, 1930-87**

State	Number executed	
	Since 1930	Since 1977
<b>U.S. total</b>	<b>3,952</b>	<b>93</b>
Georgia	378	12
New York	329	
Texas	323	26
California	292	
North Carolina	266	3
Florida	187	17
Ohio	172	
South Carolina	164	2
Mississippi	157	3
Pennsylvania	152	
Louisiana	148	15
Alabama	138	3
Arkansas	118	
Kentucky	103	
Virginia	98	6
Tennessee	93	
Illinois	90	
New Jersey	74	
Maryland	68	
Missouri	62	
Oklahoma	60	
Washington	47	
Colorado	47	
Indiana	43	2
West Virginia	40	
District of Columbia	40	
Arizona	38	
<b>Federal system</b>	<b>33</b>	
Nevada	31	2
Massachusetts	27	
Connecticut	21	
Oregon	19	
Iowa	18	
Kansas	15	
Utah	15	2
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	

**Persons executed, 1930-87**

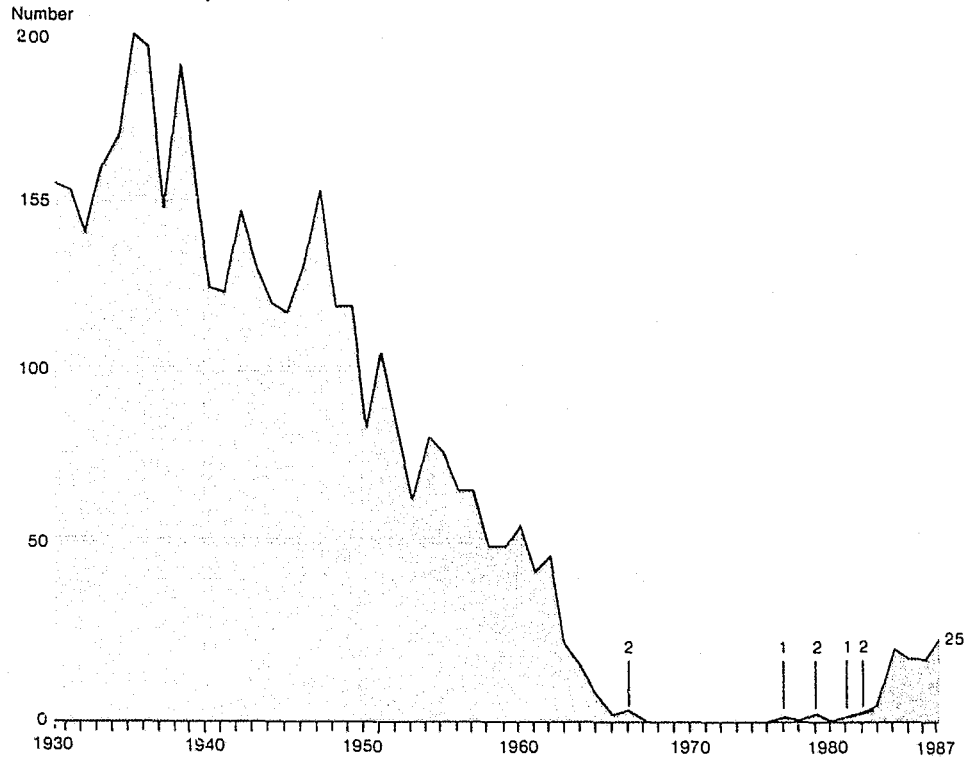


Figure 3

**Table 9. Percentage of those under sentence of death who were executed or received other dispositions, by race, 1977-87**

Race	Total under sentence of death 1977-87 <sup>a</sup>	Prisoners executed		Prisoners who received other dispositions <sup>b</sup>	
		Number	Percent of total	Number	Percent of total
All races <sup>c</sup>	3,163	93	2.9%	1,086	34.3%
White	1,815	57	3.1	620	34.2
Black	1,312	36	2.7	455	34.7

<sup>a</sup>Those under sentence of death at the beginning of 1977 (420) plus all new admissions under sentence of death between 1977 and 1987 (2,743).  
<sup>b</sup>Other dispositions include persons removed from a sentence of death due to statutes struck down on appeal, sentences/convictions vacated, commutations, or death other than by execution. Of the 1,086 removals, 52 resulted from death during confinement--22 from natural causes, 21 by suicide, 2 during escape attempts, 6 murdered by other inmates, and 1 by drug overdose.  
<sup>c</sup>Includes whites, blacks, and persons classified as members of other races.

**Table 10. Elapsed time between imposition of death sentence and execution, by race, 1977-87**

Year of execution	Number executed			Average elapsed time from sentence to execution for:		
	All races	White	Black	All races	White	Black
Total	93	57	36	77 months	70 months	86 months
1977-83	11	9	2	58	59	58
1984	21	13	8	79	76	84
1985	18	11	7	71	65	80
1986	18	11	7	86	77	102
1987	25	13	12	86	78	96

Note: Three cases were resentenced to death after appeal. For these executions, average time was calculated from the original sentencing dates. The range for elapsed time for the 93 executions was 3 months to 160 months.

**Appendix I. Current status of inmates under sentence of death, 1973-87**

Since 1973 a total of 3,404 individuals have been sentenced to death (appendix table 1). The table shows the status of those received in each year with respect to their death sentence, as of December 31, 1987. For example, of the 189 persons sentenced to death in 1978, 18 have been executed, 3 have died while in confinement, 22 have been relieved of the death sentence due to court actions striking down in whole or in part the statutes under which they were sentenced, 33 have had their convictions overturned on appeal, 49 have had their death sentences overturned on appeal, 8 have had their sentences commuted, and 56 were still under a death sentence at yearend 1987. Of the 1,984 persons under sentence of death on December 31, 1987, 222 or 11.2% were sentenced prior to 1980.

Appendix table 2 shows the distribution of the 1,984 persons under sentence of death by State and by year of sentencing. Florida, Georgia, Texas, and Utah had those inmates who had served the longest period of time under sentence of death among all condemned inmates at the end of 1987. By contrast, Connecticut and New Mexico had no inmates sentenced prior to 1987.

**Appendix II. Federal laws providing for the death penalty**

Since the Supreme Court's decision in *Furman v. Georgia* in 1972 striking down the death penalty as then applied, two death penalty statutes have been enacted by the Congress:

• Espionage by a member of the Armed Forces: communication of information to a foreign government relating to nuclear weaponry, military spacecraft or satellites, early warning systems, war plans, communications intelligence or cryptographic information, or any other major weapons or defense strategy (10 U.S.C. §906(a)).

**Appendix table 1. Reasons for removal from death row and number of prisoners on death row at yearend 1987, by year of sentencing**

Year of sentencing	Number sentenced to death	Number of prisoners removed from death row							Under death sentence on December 31, 1987
		Executed	Died	Appeal courts overturned			Sentence commuted	Other or unknown reasons	
				Death penalty statute	Conviction	Sentence			
Total, 1973-87	3,404	93	58	455	251	458	99	6	1,984
1973	43	2	0	14	9	9	9	0	0
1974	153	7	4	66	12	26	22	0	16
1975	305	5	3	170	23	60	19	6	19
1976	243	8	4	137	21	37	15	0	21
1977	145	11	1	41	24	27	6	0	35
1978	189	18	3	22	33	49	8	0	56
1979	160	5	7	2	24	42	5	0	75
1980	192	10	9	2	30	37	3	0	101
1981	243	10	7	0	30	43	3	0	150
1982	276	7	6	0	16	42	4	0	201
1983	262	5	3	1	11	29	2	0	211
1984	295	4	4	0	13	29	3	0	242
1985	289	0	2	0	5	19	0	0	263
1986	310	0	4	0	0	7	0	0	299
1987	299	1	1	0	0	2	0	0	295

**Appendix table 2. Prisoners under sentence of death on December 31, 1987, by the year of their sentence**

State	Year of death sentence															Under sentence of death, 12/31/87
	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987		
<b>Total sentenced and remaining on death row 12/31/87</b>	16	19	21	35	56	75	101	150	201	211	242	263	299	295	1,984	
Florida	6	10	8	5	16	16	17	16	25	22	30	25	37	44	277	
Georgia	7	3	3	15	10	4	8	9	7	7	10	7	11	15	116	
Texas	2	2	4	7	11	7	15	20	23	31	20	37	41	36	256	
Utah	1									1	1	3		1	7	
Montana		3								1	1	1		1	6	
Nebraska		1	2		4	1	1	1			2		1		13	
Alabama			1		1	1	2	9	19	13	11	12	8	13	90	
Arizona			1	1	1	9	9	4	10	6	7	7	6	12	73	
Arkansas			1	2		1	1	8	2	1		4	4	4	28	
Mississippi			1	3		1	3	7	7	3	1	3	9	12	50	
Nevada				1		3	1	3	4	5	6	7	3	5	38	
Oklahoma				1		2	3	3	3	4	8	13	16	15	86	
California					2	10	5	22	35	32	27	16	24	27	200	
Indiana					1	1	3	4	3	6	6	10	6	4	44	
Kentucky					1		1	2	5	5	2	5	8	3	32	
Louisiana					1		2	1	4	3	8	11	3	9	42	
Tennessee					5	1	4	5	6	5	7	12	8	9	62	
Virginia					1	3	1	2	3	3	8	1	10	6	38	
Illinois					5	12	10	6	13	11	15	25	11		108	
Maryland							1	4	5		6		1		17	
Missouri						2	3	6	6	2	6	9	9	9	52	
North Carolina						2	4	4	3	7	10	19	11	16	76	
South Carolina						4	3	4	1	8	6	6	12	1	45	
Delaware							2	2	2				1	1	6	
Pennsylvania							1	5	9	12	10	13	17	13	80	
Idaho								1	5		5	1	1		13	
Ohio									3	13	17	18	17	12	80	
Washington									2	2		1	2	1	8	
Wyoming									2						2	
New Jersey										2	6	7	6	7	28	
Colorado											1			2	3	
Oregon													2	3	5	
Connecticut														1	1	
New Mexico														2	2	

● Death resulting from aircraft hijacking (49 U.S.C. §§1472 and 1473).

At the end of 1987, two males were awaiting execution under a military death sentence for murder. The following capital punishment provisions, which were enacted prior to the Furman decision, remain in the U.S. Code:

● Murder while a member of the Armed Forces (10 U.S.C. §918).

● Destruction of aircraft, motor vehicles, or related facilities resulting in death (18 U.S.C. §§32, 33, and 34).

● Retaliatory murder of a member of the immediate family of law enforcement officials (18 U.S.C. §115(b)(3) [by cross-reference to 18 U.S.C. §1111]).

● Murder of a member of Congress, an important executive official, or a Supreme Court Justice (18 U.S.C. §351 [by cross-reference to U.S.C. §1111]).

● Espionage (18 U.S.C. §794).

● Destruction of government property resulting in death (18 U.S.C. §844(f)).

● First-degree murder (18 U.S.C. §1111).

● Mailing of injurious articles with the intent to kill or resulting in death (18 U.S.C. §1716).

● Assassination or kidnaping resulting in the death of the President or Vice President (18 U.S.C. §1751 [by cross-reference to 18 U.S.C. §1111]).

● Willful wrecking of a train resulting in death (18 U.S.C. §1992).

● Bank robbery--related murder or kidnaping (18 U.S.C. §2113).

● Treason (18 U.S.C. §2381).

#### Methodological note

The statistics reported in this bulletin may differ from data collected by other organizations for a variety of reasons: (1) Inmates are originally added to the National Prisoner Statistics (NPS) death-row counts not at the time the court hands down the sentence but at the time they are admitted to a State or Federal correctional facility. (2) Subsequently, admissions to death row or releases as a result of a court order are attributed to the year in which the sentence or court order occurred; prior year counts are, therefore, adjusted to reflect the actual dates of court decisions (see note, table 4). (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.

#### 1987 U.S. Supreme Court decisions cited

California v. Brown, 107 S. Ct. 837 (1987)  
Tison v. Arizona, 107 S. Ct. 1676 (1987)  
Hitchcock v. Dugger, 107 S. Ct. 1821 (1987)  
McCleskey v. Kemp, 107 S. Ct. 1756 (1987)  
Arizona v. Mauro, 107 S. Ct. 1931 (1987)  
Gray v. Mississippi, 107 S. Ct. 2045 (1987)  
Booth v. Maryland, 107 S. Ct. 2529 (1987)  
Sumner v. Sherman, 107 S. Ct. 2716 (1987)  
Ricketts v. Adamson, 107 S. Ct. 2680 (1987)  
Burger v. Kemp, 107 S. Ct. 3114 (1987)

#### State notes

Colorado--Amended 16-11-103(6)(g) to include felony murder as an aggravating circumstance. Effective date 4/30/87. Subsequent amendments in 1988 classified escape as a felony for felony murder circumstances, changed the method of execution to lethal injection, and added language permitting sentencing juries to consider nonstatutory aggravating circumstances. These changes became effective on 7/1/88.

Illinois--Amended IRS, Chapter 38, 9-1(b)(3), to refine language defining aggravating factors relating to multiple murders in which the defendant demonstrated either an intent to kill more than one person or engaged in separate acts that would cause death or create a strong probability of death or great bodily harm to the murdered individual or another. The language added was introduced to replace the use of the word "premeditated." Effective date 1/1/88.

Indiana--Amended IC 35-50-2-3(b) to raise the minimum age for which a death sentence may be imposed to 16. Amended IC 35-50-2-9 to add as an aggravating circumstance murder victims under 12 years old and as a mitigating circumstance offenders under 18 years old at the time of the murder. Effective date 9/1/87.

Kentucky--Amended KRS 640.040(1) to prohibit capital punishment for persons under 16 years old at the time of the murder. Effective date 7/1/87.

Maryland--Amended Article 27, Section 412(b), (d), and (e), to include a life sentence without the possibility of parole as a sentencing option for murder. Amended Article 27, Section 413(e)(3), to redefine the term "law

enforcement officer" in the enumerated aggravating circumstances to include probation and parole officers, law enforcement officers of jurisdictions outside of Maryland, probationary police officers, and law enforcement officers while privately employed as a security officer or special policeman. Amended Article 27, Section 412(f), to establish 18 years as the minimum age to receive a death sentence. Effective date 7/1/87.

Montana--Amended 46-18-303(7) to include as an aggravating circumstance the death of a kidnaping victim or a person rescuing or attempting to rescue a kidnaping victim. Effective date 10/1/87.

New Hampshire--Amended RSA 630:5 (987 Supp.) to replace hanging with lethal injection as the method of execution. Effective date 1/1/87.

North Carolina--Amended NCGS 14-17 to limit capital sentencing to defendants age 17 or older unless the defendant is convicted of murder while serving time in a correctional facility for a prior murder. The minimum age in such cases would be 14. Effective date 7/29/87.

Washington--Amended RCW 10.95.200 to provide procedures for issuing a new death warrant in the event that a scheduled execution is not carried out. Effective date during 1987 not specified.

Bureau of Justice Statistics Bulletins are written principally by BJS staff. This bulletin was written by Lawrence A. Greenfeld, corrections unit chief. Frank D. Balog edited the bulletin. Marilyn Marbrook, publications unit chief, administered report production, assisted by Christina Roberts, Betty Sherman, Yvonne Shields, and Jeanne Harris. Data were collected and tabulated by Arlene Rasmussen and other staff of the U.S. Bureau of the Census under the supervision of Larry McGinn and Gertrude Odom.

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