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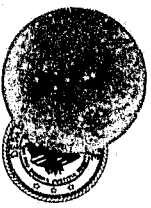
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102742



Bureau of Justice Statistics
Bulletin

102742

Capital Punishment, 1985

Eight States executed a total of 18 prisoners during 1985, bringing the total number of executions to 50 since 1976, the year that the United States Supreme Court upheld the death penalty in three separate cases. Those executed during 1985 had spent an average of 5 years and 11 months awaiting execution, about the same as the average for the 32 previous executions.

During 1985, 273 prisoners were received under sentence of death, 80 had their death sentences vacated or commuted, and 4 died while under sentence of death. At yearend 32 States reported a total of 1,591 prisoners under sentence of death, all for murder. The median time since sentence was imposed was 36 months.

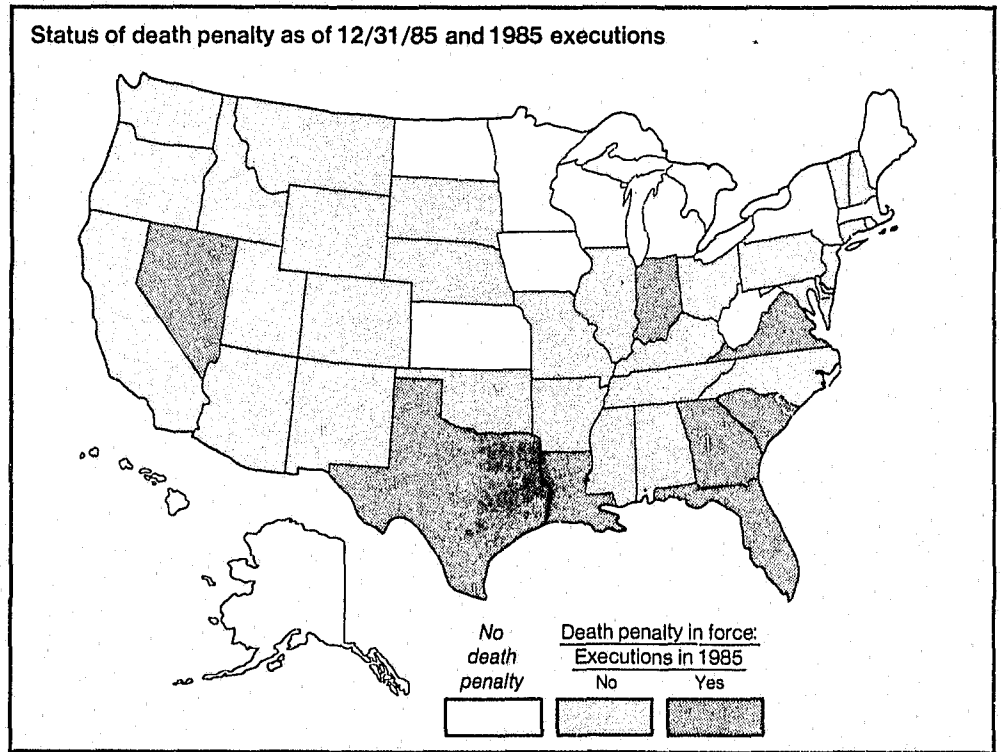
About 2 in 3 offenders under sentence of death for whom such information was available had a prior felony conviction; about 1 in 11 had a prior homicide conviction. About 2 in 5 condemned prisoners for whom such information was available were in some criminal justice status at the time of the capital offense; half of these were on parole. The rest were either in prison, on escape from prison, or on probation or had charges pending against them.

The majority of those under sentence of death (903) were white; 672 were black; 11, American Indian; and 5, Asian. The median age was nearly 32 years old.

About 63% of those under sentence of death were held by States in the South. Western States held an additional 19%; Midwestern States, 14%; and the Northeast, nearly 5%. Florida had the largest number of condemned inmates (226), followed by Texas (206), California (170), and Georgia (107).

Inmates received under sentence of

Status of death penalty as of 12/31/85 and 1985 executions



death during 1985 were also concentrated in the South (61%). Twenty percent were in the Midwest; 12%, in the West; and 7%, in the Northeast. A total of 26 State prison systems received prisoners under sentence of death in 1985.

The 18 executions in 1985 were carried out by eight States: 6 in Texas, 3 in Georgia, 3 in Florida, 2 in Virginia, and 1 each in Indiana, Louisiana, Nevada, and South Carolina. Eleven of those executed were white males and seven were black males.

From the beginning of 1977 to the end of 1985, a total of 12 States carried out executions. Over the same period, 2,110 persons were admitted to prisons under sentence of death and 889 per-

October 1986

This bulletin marks the 55th consecutive year that capital punishment statistics have been published by the Federal government. The cooperation of officials in each of the States has been essential to the continuity of this series. The Bureau of Justice Statistics gratefully acknowledges the contributions of both the State departments of correction and offices of the attorney general to the information presented in this report.

Steven R. Schlesinger
Director

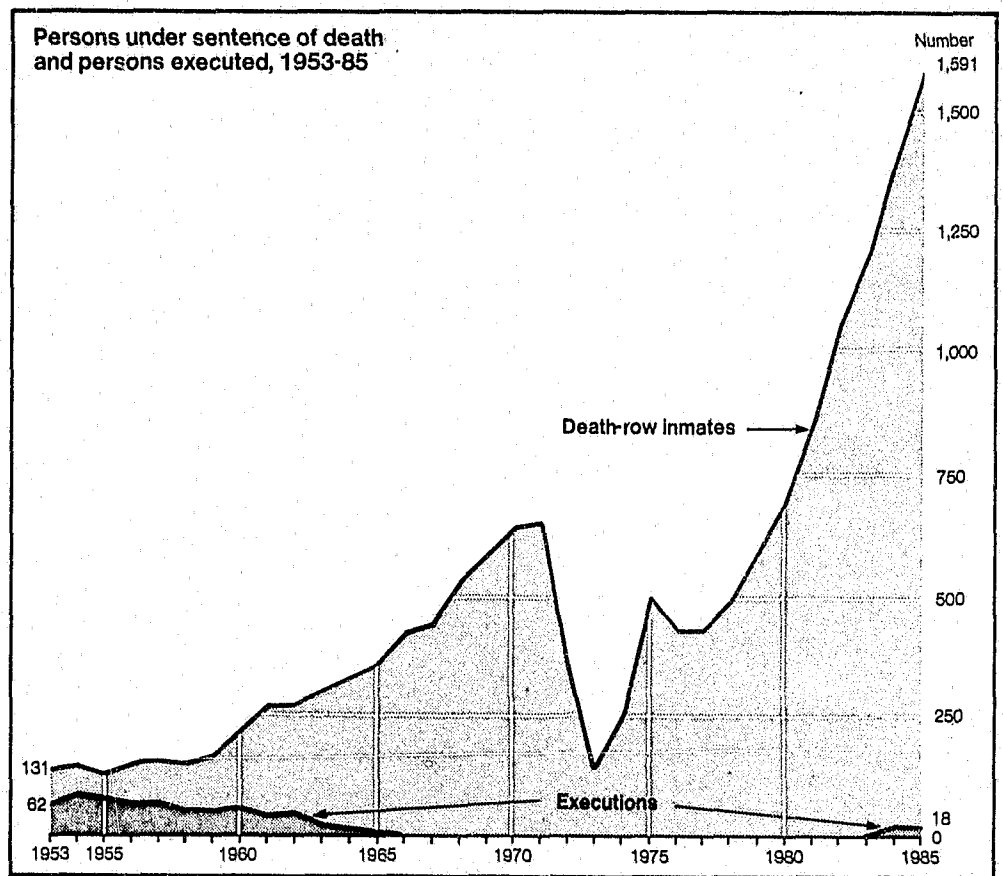
sons were removed from the condemned population as a result of dispositions other than execution (such as resentencing, retrial, or commutation) or died while awaiting execution).

Capital punishment in the courts

On January 21, 1985, the Supreme Court in **Wainwright v. Witt** handed down an important decision bearing on the longstanding issue of the constitutionality of excluding persons opposed to the death penalty from juries in capital cases. The 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 imposing a death sentence. The High Court held that, as a matter of principle, any juror can be excused if his views on capital punishment are deemed by the trial judge to "prevent or substantially impair the performance of his duties."

In **Ake v. Oklahoma** (decided February 26, 1985) the Court rendered a decision related to one aspect of the sanity defense. The court reversed and remanded a State case in which an indigent defendant was not provided the assistance of a psychiatrist to determine his mental state at the time of the crime or to rebut the testimony of prosecution psychiatrists as to his future dangerousness (an aggravating factor for capital sentencing in Oklahoma). The Court of Criminal Appeals in Oklahoma had concluded previously that the defendant had waived his right to a court-provided psychiatrist by not raising this claim in his motion for a new trial—a conclusion rejected by the High Court. The Court found that the defendant's request for an appointed psychiatrist at a pretrial conference constituted a preliminary showing that his sanity would be an issue in the trial. The Court held that psychiatric assistance should have been provided.

In **Caldwell v. Mississippi** (decided June 11, 1985) the High Court reversed a death sentence imposed by the trial court jury. The court concluded that the prosecution had influenced the jury in an unconstitutional manner by emphasizing, in the closing argument at the sentencing stage, that a death sentence would ultimately be reviewed for correctness by the State Supreme Court. Such a prosecution argument was viewed as improperly diminishing the "awesome responsibility" placed upon jurors to choose between life or death and was inconsistent with the need for a reliable determination "that death is an appropriate punishment in a



specific case," guaranteed by the Eighth Amendment.

Fifth Amendment protection against "double jeopardy" in a capital sentence was the subject of **Heath v. Alabama** (decided December 3, 1985). In this case the Supreme Court upheld a death sentence imposed by an Alabama trial court on a resident of that State for a murder that occurred in Georgia, after he had already been sentenced to life imprisonment for the same murder by a Georgia trial court. At issue was a contract kidnap/murder that began with the kidnaping in Alabama and concluded when the victim's body was found in Georgia. The Georgia conviction was for "malice murder" based upon a plea entered in exchange for a life sentence. The Alabama trial court rejected the claim of double jeopardy and subsequently imposed a sentence of death for murder during a kidnaping. The Supreme Court also rejected the appellant's claim of double jeopardy concluding that the "dual sovereignty" doctrine did not bar successive prosecutions by two States for the same conduct.

Other cases of interest during the year were:

● **Francis v. Franklin** (decided April 29, 1985). The Court concluded

that improper instructions had been given to the jury on criminal intent and that the prosecution had failed to fulfill the requirement to prove the existence of such intent beyond "reasonable doubt."

● **Heckler v. Chaney** (decided March 20, 1985). This case was brought by inmates sentenced to death by lethal injection of drugs after the Food and Drug Administration had denied their petition to prohibit the use of these drugs for this purpose. The Court held that under the Administrative Procedures Act the Food and Drug Administration's failure to take enforcement action against drugs used for execution by lethal injection was not subject to judicial review.

● **Baldwin v. Alabama** (decided June 17, 1985). The Court held that Alabama's mandatory death sentence in cases where the jury finds the defendant guilty of aggravated murder is constitutional because the statute provided that the trial judge can set aside the jury sentence after an independent weighing of aggravating and mitigating circumstances.

Capital punishment laws

At yearend 1985, the death penalty was authorized by the statutes of 37

States and by Federal statute (table 1).¹ In contrast to 1984—when the death penalty was struck down in New York and Massachusetts, and Oregon enacted a new capital punishment law—there were no successful challenges to the constitutionality of State death penalty laws or enactment of any new legislation authorizing capital punishment during 1985. In a series of 1985 rulings, however, the California Supreme Court reversed death sentences for defendants convicted of "murder with special circumstances" (e.g., felony murders, multiple murders) concluding that juries must be properly instructed to determine that the defendant had an actual "intent to kill" before they can impose the death sentence.

Statutory changes

Eleven States altered their existing death penalty statutes during 1985. Arizona, Arkansas, Montana, Texas, and Virginia added new aggravating factors or capital offense categories to their capital punishment laws. Arizona included adult status of the offender when the victim was less than 15 years old as a circumstance that could aggravate homicide to first degree murder. Arkansas incorporated murder for pecuniary gain and murder committed in a heinous or cruel manner into its statutes as aggravating factors. Texas included multiple murders as an aggravating factor. Virginia added murder during an abduction of a child under the age of 12 as a capital crime.

Montana added a series of aggravating circumstances for murder committed by prison inmates who had a prior record of deliberate homicide or of repeated felonies at least one of which was a violent offense. The aggravating circumstances are attempted deliberate homicide, aggravated assault, or aggravated kidnaping.

Three States—Colorado, Connecticut, and South Carolina—amended their death penalty statutes to ensure severe restrictions on parole for persons who had their death sentences commuted to life imprisonment. Colorado stipulated that for offenses committed after mid-year 1985 prisoners whose death sentences were commuted to life terms could not be paroled for 40 years. Connecticut provided that defendants sentenced to life imprisonment, instead of death, because of mitigating circumstances in capital murder cases must

¹The only Federal crime for which capital punishment is now authorized is aircraft piracy (excluding crimes prosecuted under military authority).

Jurisdictions authorizing capital punishment at some time during 1985	Revised or replaced by legislature	Automatic appeals required	Capital offenses
Federal			Aircraft piracy
Alabama		Yes	Murder
Arizona	Yes	Yes	First degree murder
Arkansas	Yes		Aggravated murder; treason
California		Yes	First degree murder with special circumstances
Colorado	Yes	Yes	First degree murder (includes felony murder); first degree kidnaping
Connecticut	Yes	Yes	Murder
Delaware		Yes	First degree murder with statutory aggravating circumstances
Florida			First degree murder
Georgia		Yes	Murder; treason; aircraft hijacking; kidnaping with bodily injury; armed robbery or rape in which victim dies
Idaho		Yes ^a	First degree murder, aggravated kidnaping (except where victim released unharmed)
Illinois		Yes	Murder
Indiana		Yes	Murder
Kentucky		Yes	Aggravated murder; kidnaping when victim is killed
Louisiana		Yes	First degree murder
Maryland		Yes ^a	First degree murder
Mississippi	Yes	Yes	Capital murder, capital rape
Missouri		Yes	First degree murder
Montana	Yes	Yes	Deliberate homicide, aggravated kidnaping (resulting in death)
Nebraska		Yes	First degree murder
Nevada	Yes	Yes	First degree murder
New Hampshire		Yes	Contract murder or murder of a law enforcement officer or kidnaping victim
New Jersey	Yes	Yes ^b	Kidnaping or purposeful murder or contract murder with aggravating circumstances
New Mexico		Yes ^a	First degree murder
North Carolina		Yes	First degree murder
Ohio			Aggravated murder
Oklahoma		Yes	Murder
Oregon		Yes	Aggravated murder
Pennsylvania		Yes	First degree murder
South Carolina	Yes	Yes	Murder with statutory aggravating circumstances
South Dakota		Yes	Murder, kidnaping (with gross permanent physical injury inflicted on victim)
Tennessee		Yes	First degree murder
Texas	Yes	Yes	Murder of public safety officer, fireman, or correctional employee; murder during specified felonies or escapes; contract murder; multiple murders
Utah		Yes	First degree murder; aggravated assault by prisoner sentenced for first degree felony where serious injury is caused
Vermont			Murder of police or corrections officer, kidnaping for ransom
Virginia	Yes	Yes	Capital murder
Washington		Yes	Aggravated, premeditated first degree murder
Wyoming		Yes	First degree murder

Note: See Appendix for State-by-State detail on statutory revisions. Jurisdictions without capital punishment statutes are: Alaska, District of Columbia, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota,

New York, North Dakota, Rhode Island, West Virginia, and Wisconsin.
^aSentence review only.
^bAutomatic review after January 17, 1986.

serve a life term without possibility of parole. South Carolina specifically excluded from parole eligibility those persons commuted to life sentences for murder.

Only one State—New Jersey—modified its death penalty law to restrict the scope, by providing that no death sentence be imposed unless the aggravating factors outweighed the mitigating circumstances "beyond any reasonable doubt."

Lastly, Nevada limited the time for automatic State Supreme Court review of death sentences to 150 days and also struck the requirement for a proportionality review as a part of the evaluation by the State Supreme Court.

Methods of execution

At yearend 1985, lethal injection (16 States) and electrocution (15 States) were the most common methods of execution. Eight States authorized lethal gas; four States, hanging; and two States, a firing squad (table 2). Eight States provided for more than one method of execution—lethal injection and an alternative method—generally at the election of the condemned prisoner. (In Mississippi lethal injection was introduced in 1985 for persons convicted after July 1, 1984.) Some States have stipulated an alternative to lethal injection in anticipation 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 1985, 32 provided for an automatic review of all death sentences. Arkansas, Florida, New Jersey, Ohio, and Vermont had no specific provisions for automatic review (although New Jersey has had such review since January 17, 1986). In most States automatic review is conducted regardless of the defendant's wishes. While most of the 32 States authorize automatic review of both conviction and sentence, Idaho, Maryland and New Mexico 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. Some statutes also permit the State Supreme Court to commute a death sentence to life imprisonment.

Minimum age

A total of 23 States specify a minimum age at 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 old (nine States). Fourteen States and the Federal system report no minimum age.

Table 2. Method of execution, by State, 1985

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

^aAuthorizes two methods of execution.
^bMississippi 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.
^cShould lethal injection be found to be unconstitutional, Oklahoma authorizes use of electrocution or firing squad.

Table 3. Minimum age authorized for capital punishment, yearend 1985

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

^aDuring 1985 New Jersey enacted legislation changing the minimum age for receiving the death penalty from 14 to 18 years old, effective January 17, 1986.
^bAdult status at trial required.

Prisoners under sentence of death at yearend 1985

A total of 32 States reported 1,591 prisoners under sentence of death on December 31, 1985, an increase of 171 or 12.2% over the count at the end of 1984 (table 4). States with the largest number of prisoners under sentence of death were Florida (226), Texas (206), California (170), and Georgia (107).

Although 37 States had statutes authorizing the death penalty (covering 7% of the nation's adult population), 5 of these reported no prisoners under sentence of death at yearend (Connecticut, New Hampshire, Oregon, South Dakota, and Vermont).

Of the 1,591 persons under sentence of death, more than three-fifths (63%) were in the South, 19% were in Western States, 14% in the Midwest, and nearly 1% in the Northeast. Nearly all were male (98.9%) and most were white (56.8%) (table 5). Blacks constituted 2.2% of those under sentence of death and another 1% were American Indians or Asian Americans. The States reported a total of 99 Hispanics under sentence of death, 6.2% of the total. The largest number of Hispanics were held in States with relatively large Hispanic populations: Texas (33), California (22), Florida (10), Illinois (9), and Arizona (7).

The median age of those under sentence of death was nearly 32 years. Less than 1% were under the age of 20 and 2% were 55 or older. The youngest offender under sentence of death was 6 years old and the oldest was 74 years old. About 1 in 9 of the inmates for whom information on education was available had not gone beyond seventh grade, but about 1 in 11 had some college education. The median level of education was 10.5 years. Approximately a third of the condemned inmates for whom marital status was available were married, one-fifth were divorced or separated, and two-fifths had never been married.

The 17 women under sentence of death at yearend 1985 were held in 11 States, with no State holding more than two women (table 6). Since 1972, a total of 16 States have held women under death sentences. Since 1977, one woman has been executed.

Table 4. Prisoners under sentence of death, by region and State at yearend 1984 and 1985

Region and State	Prisoners under sentence 1984	Changes during 1985			Prisoners under sentence 1985
		Received under sentence	Removed from death row (excluding executions)	Executed	
United States	1,420	273	84 ^a	18	1,591
Federal ^b	0	0	0	0	0
State	1,420	273	84	18	1,591
Northeast	59	20	6	0	73
Connecticut	0	0	0	0	0
New Hampshire	0	0	0	0	0
New Jersey	10	7	0	0	17
Pennsylvania	49	13	6	0	56
Vermont	0	0	0	0	0
Midwest	174	54	6	1	221
Illinois	70	15	2	0	83
Indiana	26	10	1	1	34
Missouri	29	8	1	0	36
Nebraska	13	0	1	0	12
Ohio	36	21	1	0	56
South Dakota	0	0	0	0	0
South	900	167	50	16	1,001
Alabama	68	13	2	0	79
Arkansas	23	6	1	0	28
Delaware	6	0	2	0	4
Florida	215	27	13	3	226
Georgia	112	8	10	3	107
Kentucky	20	6	1	0	25
Louisiana	31	10	1	1	39
Maryland	19	0	2	0	17
Mississippi	39	5	3	0	41
North Carolina	37	20	1	0	56
Oklahoma	50	14	6	0	58
South Carolina	35	9	1	1	42
Tennessee	37	11	2	0	46
Texas	180	36	4	6	206
Virginia	28	2	1	2	27
West	287	32	22	1	296
Arizona	56	4	4	0	56
California	167	16	13	0	170
Colorado	1	0	0	0	1
Idaho	14	1	1	0	14
Montana	4	1	0	0	5
Nevada	28	7	3	1	31
New Mexico	5	0	0	0	5
Oregon	0	0	0	0	0
Utah	5	2	1	0	6
Washington	4	1	0	0	5
Wyoming	3	0	0	0	3

Note: States not listed and the District of Columbia did not have the death penalty as of 12/31/85. Some of the figures shown for yearend 1984 are revised from those shown in *Capital Punishment, 1984, NCJ-98399*. The revised figures include 24 inmates who were either reported late to the NPS program or who were not in the custody of State correctional authorities by 12/31/84 (2 in Pennsylvania, 1 in Ohio, 1 in Georgia, 1 in Florida, 10 in Alabama, 5 in Louisiana, 2

in Oklahoma, and 2 in Texas) and exclude 9 inmates relieved of the death sentence before 12/31/84 (1 in Illinois, 1 in Florida, 1 in Louisiana, 1 in Oklahoma and 5 in California). ^aIncludes 1 inmate in Ohio who committed suicide, 1 each in Missouri and Tennessee who were murdered by another inmate, and 1 in Louisiana who died of natural causes. ^bExcludes one male held under Armed Forces jurisdiction with a military death sentence for murder.

Entries and removals of persons under sentence of death

During 1985, 26 State prison systems reported receiving prisoners under sentence of death. Texas reported the largest number (36), followed by Florida (27), Ohio (21), and North Carolina (20).

Of the 273 received under sentence of death:

- all were convicted of murder;
- 157 were white males, 111 were black males, 2 were male American Indians;
- 3 were white females;
- 17 were Hispanic.

Twenty-six States reported a total of 80 persons whose sentence of death was vacated or commuted during 1985. Florida and California reported the largest number, 13 each, followed by Georgia with 10.

Of the 80 persons whose death sentence was vacated or commuted during 1985:

- 46 had their sentences vacated but convictions upheld;
 - 30 had both their sentences and convictions vacated;
 - 4 had their sentences commuted.
- At yearend, 45 of the 80 were serving life sentences, 17 were awaiting new trials, 11 were awaiting resentencing, no further prosecution was sought for 6, and 1 was in an undetermined status.

In addition, four persons died while under sentence of death in 1985. Two of these were murdered by other inmates; 1 died as a result of natural causes; and 1 committed suicide.

From 1977, the year after the Supreme Court reinstated the death penalty, through 1985, a total of 2,110 persons entered prison under a sentence of death; 889 had their capital sentence vacated or commuted or died while under sentence; and 50 were executed. Of those admitted, 58% were white, 41% were black, and 1% were classified as other races. Of those who had their sentences vacated or commuted or who died while under sentence, 57% were white, 42% were black, and less than 1% were of other races. Of the 50 executed, 66% were white and 34% were black.

Table 5. Demographic profile of prisoners under sentence of death, 1985

	Yearend 1985	1985 admissions	1985 removals
Total number under sentence of death	1,591	273	102
Sex			
Male	98.9%	98.9%	97.1%
Female	1.1	1.1	2.9
Race			
White	56.8%	58.6%	61.8%
Black	42.3	40.7	36.3
Other ^a	1.0	.7	2.0
Ethnicity			
Hispanic	6.2%	6.2%	5.9%
Non-Hispanic	93.8	93.8	94.1
Age^b			
Less than 20 years	.8%	4.4%	0 %
20-24	13.3	26.4	9.8
25-29	26.9	25.3	30.4
30-34	23.6	19.8	23.5
35-39	16.3	9.9	13.7
40-54	17.0	12.1	20.6
55+	2.0	2.2	2.0
Median	31.9 years	28.0 years	32.1 years
Education			
7th grade or less	10.8%	10.8%	9.9%
8th	11.7	11.1	13.6
9th-11th	35.8	39.4	34.6
12th	32.4	30.3	33.3
Any college	9.4	8.4	8.6
Median	10.5 years	10.4 years	10.5 years
Marital status			
Married	32.6%	28.0%	37.1%
Divorced/separated	21.2	22.2	14.4
Widowed	2.3	3.5	4.1
Never married	43.9	46.3	44.3

Note: Percentage and median calculations are based on those cases for which data were reported. Education data were not reported for 235 prisoners at yearend 1985, 22 prisoners admitted in 1985, and 21 prisoners removed in 1985. Data on marital status were not reported for 98 prisoners at yearend 1985, 16 prisoners admitted in 1985, and 5 prisoners removed in 1985.
^aConsists of 11 American Indians and 5 Asians.
^bThe youngest person under sentence of death was a black inmate in Arkansas born in October 1969. The oldest was a white inmate in Kentucky born in October 1911.

Table 6. Number of women on death row by State, yearend 1972-85

State	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
United States	4	3	3	8	7	6	5	7	9	11	14	13	17	17
California	3			1	2									
Georgia	1	2	1	1	1	1	1	2	3	4	4	3	2	2
North Carolina		1	2	3			2	1	1	1	1	1		
Ohio				2	3	4						2	2	2
Oklahoma				1				1	1	1	2	2	1	1
Florida					1	1	1	1	1	1			1	2
Alabama							1	1		1	1	2	2	2
Texas								1	2	2	2		1	2
Kentucky									1	1				
Maryland										1				
Mississippi											1	2	1	1
Nevada											1	1	1	1
New Jersey											1	1		2
Arkansas													1	
Idaho													1	
Indiana														1

Table 7. Criminal history profile of prisoners under sentence of death, by race, 1985

	Number under sentence of death			Percent of those under sentence of death ^a		
	All races ^b	White	Black	All races ^b	White	Black
Prior felony conviction history						
Yes	970	528	432	66.2%	62.2%	71.9%
No	496	321	169	33.8	37.8	28.1
Not reported	125	54	71			
Prior homicide conviction history						
Yes	116	48	67	9.0%	6.5%	12.6%
No	1,170	693	464	91.0	93.5	87.4
Not reported	305	162	141			
Legal status at time of capital offense						
Charges pending	85	55	28	6.6%	7.4%	5.2%
Probation	70	48	21	5.4	6.5	3.9
Parole	260	123	137	20.1	16.5	25.6
Prison escapee	36	22	14	2.8	3.0	2.6
Prison inmate	44	24	20	3.4	3.2	3.7
Other status ^c	21	11	9	1.6	1.5	1.7
None	776	461	307	60.1	62.0	57.3
Not reported	299	159	136			
Median time elapsed since imposition of death sentence	36 mos.	35 mos.	38 mos.			

^aPercents are based on those offenders for whom data were reported.
^bIncludes whites, blacks, and persons classified as members of other races.
^cIncludes six persons on mandatory release, two on bail, three on furlough from prison, one for whom charges were pending from the U.S. Army, one in a local jail, and eight on work release/work furlough from prison.

Criminal history of inmates under sentence of death in 1985

Among those under sentence of death at yearend 1985 for whom criminal history information was available, 66% had a history of felony convictions (table 7). Among those for whom information on homicide was available, 9% 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 been in an active status. Half of these were on parole, while the rest had charges pending (7%), were on probation (5%), or were prison inmates (3%) or escapees (3%). Excluding those with pending charges, a total of one in three were already under sentence for another crime when the murder for which they were condemned occurred; in a number of States such status is considered an aggravating factor in sentencing for murder.

The criminal history patterns were similar for whites and blacks, although somewhat higher percentages of blacks than whites had prior felony convictions or 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, 3,909 executions have been conducted under civil authority (table 8).² Since the death penalty was reinstated by the Supreme Court in 1976, the States have executed 50 persons:

1977:	1	1983:	5
1979:	2	1984:	21
1981:	1	1985:	18
1982:	2		

A total of 12 States have carried out executions since 1977. During the period, 32 white males, 17 black males, and 1 white female have been executed with the largest number of executions occurring in Florida (13), Texas (10), and Louisiana (7). During 1985, 11 white males and 7 black males were executed by eight States.

²An additional 160 executions have been carried out under military authority since 1930.

Table 8. Number of persons executed, by jurisdiction in rank order, 1930-85

State	Number executed	
	Since 1930	Since 1977
U.S. total	3,909	50
Georgia	372	6
New York	329	
Texas	307	10
California	292	
North Carolina	265	2
Florida	183	13
Ohio	172	
South Carolina	163	1
Mississippi	155	1
Pennsylvania	152	
Louisiana	140	7
Alabama	136	1
Arkansas	118	
Kentucky	103	
Virginia	96	4
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	
Federal system	33	
Nevada	31	2
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 2,530 offenders have been under a death sentence for varying periods of time (table 9).

Table 9. Percentage of those under sentence of death who were executed or received other dispositions, by race, 1977-85

Race	Total under sentence of death 1977-85 ^a	Prisoners executed		Prisoners who received other dispositions ^b	
		Number	Percent of total	Number	Percent of total
All races ^c	2,530	50	2.0%	889	35.1%
White	1,441	33	2.3	505	35.0
Black	1,086	17	1.6	377	35.4

^aThose under sentence of death at the beginning of 1977 (420) plus all new admissions under sentence of death between 1977 and 1985 (2,110).
^bOther 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 889 removals, 32 resulted from death during confinement—11 from natural causes, 14 by suicide, 2 during escape attempts, and 5 murdered by other inmates).
^cIncludes whites, blacks, and persons classified as members of other races.

There were 50 executions and 889 removals for other reasons, including death while awaiting execution. Most of the removals occurred because the individual's particular sentence or conviction was overturned. A slightly higher percentage of whites than blacks were executed during this period; removal rates for the two races were virtually identical.

For those executed since 1977, the average time between sentence imposition and execution was 6 years (table 10). For the 11 prisoners executed during 1977-83 an average of nearly 5 years elapsed between the time their sentence was imposed and their execution. Those executed in 1984 had spent more than 6½ years under sentence of death. Prisoners executed in 1985 had averaged just under 6 years awaiting execution, a year more than the average for 1977-83, but a half-year less than the average for 1984.

Black prisoners executed in 1985 had spent an average of 6 years and 8 months awaiting execution; whites, 5 years and 5 months.

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 originally added to the National Prisoner Statistics 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.

U.S. Supreme Court decisions cited

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Heckler v. Chaney 105 S. Ct. 1649 (1985)
Baldwin v. Alabama 105 S. Ct. 2048 (1985)

Table 10. Elapsed time between imposition of death sentence and execution, by race, 1977-85

Year of execution	Number executed			Average elapsed time from sentence to execution for:		
	All races	Whites	Blacks	All races	Whites	Blacks
Total	50	33	17	72 months	68 months	79 months
1977-83	11	9	2	58	59	58
1984	21	13	8	79	76	84
1985	18	11	7	71	65	80

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 50 executions was 3 months to 133 months.

State notes

Arizona—Amendments to Ariz. Rev. Statutes, Section 13-703-(F9), include as aggravating factors cases when the defendant was an adult at the time the offense was committed or was tried as an adult and the victim was under 15 years of age. Effective 5/16/85.

Arkansas—Revisions to Ark. Rev. Statutes, Article V, Chapter 15, Section 41-1501,8, include murder for pecuniary gain and murder committed in a heinous and cruel manner as aggravating factors. Effective 4/4/85.

Colorado—Revisions to Sections 16-11-103, 18-1-105, Colo. Rev. Statutes, 1985 Suppl. Vol. provide for juries to be instructed that for offenses committed before midyear 1985, life imprisonment means no parole for 20 years, and for offenses on or after that date, no parole for 40 years. Effective 7/1/85.

Connecticut—Amendments to Conn. General Statutes 53a-54b by Public Acts 85-366 stipulate trial court criteria for determining any mitigating circumstances before sentencing in capital murder cases and also provide that if mitigating factors exist, the defendant must be sentenced to life imprisonment without parole. Effective 10/1/85.

Mississippi—Capital murder includes murder of a peace officer, murder by a life-sentence inmate, murder perpetrated by bomb or explosive, contract murder, murder committed during another felony, and murder of an elected official. Capital rape is forcible rape of a child under 14 years by a person 18 years or older. Revision to Miss. Penal Code 99-19-51 Suppl. 1985 substitutes lethal injection for lethal gas as the method of execution for those convicted after July 1, 1984, retaining lethal gas as the method for those convicted before that date.

Montana—Amendments to Section 46-18-303, Mont. Code Ann., 1985, include as aggravating circumstances attempted deliberate homicide, aggravated assault, or aggravated kidnaping committed by State prison inmates with prior records of deliberate homicide or

of persistent felonies including violent offenses. Effective 10/1/85.

Nevada—Amendments to Chapter 177, Nev. Rev. Statutes, limit the time for appellate review of death sentences to 150 days. Section 177.055 eliminates the requirement that the State Supreme Court's automatic review of a death sentence include an evaluation of its proportionality to other similar cases, though a review for excessiveness of the penalty is retained. Effective 7/1/85.

New Jersey—Amendments to New Jersey Statutes 2C:11-3 include provisions that a mandatory death penalty may not be imposed unless the aggravating factors outweigh the mitigating factors beyond any reasonable doubt. Effective 7/10/85.

South Carolina—Amendment to S.C. Statutes at Large, Sec. 16-3-20, specifically provides that persons whose sentences for murder were commuted to life sentences may not be eligible for parole. Effective 5/21/85.

Texas—Amendment to Texas Penal Code Section 19.03(a) adds multiple murders to the overall category of capital murder. Effective 9/1/85.

Virginia—Amendments to Virginia Code, Section 18.2-31(h) add murder of a child under the age of 12 years old in the commission of an abduction to the categories of capital murder. Effective 7/1/85.

Bureau of Justice Statistics Bulletins are prepared principally by the staff of BJS. This bulletin was written by Lawrence A. Greenfeld, corrections unit chief. Carol B. Kalish, chief of data analysis, edits the bulletins. Marilyn Marbrook, publications unit chief, administered production, assisted by Millie Baldea and Betty Sherman. Data were tabulated by Arlene Rasmussen and other staff of the U.S. Bureau of the Census.

November 1986, NCJ-102742

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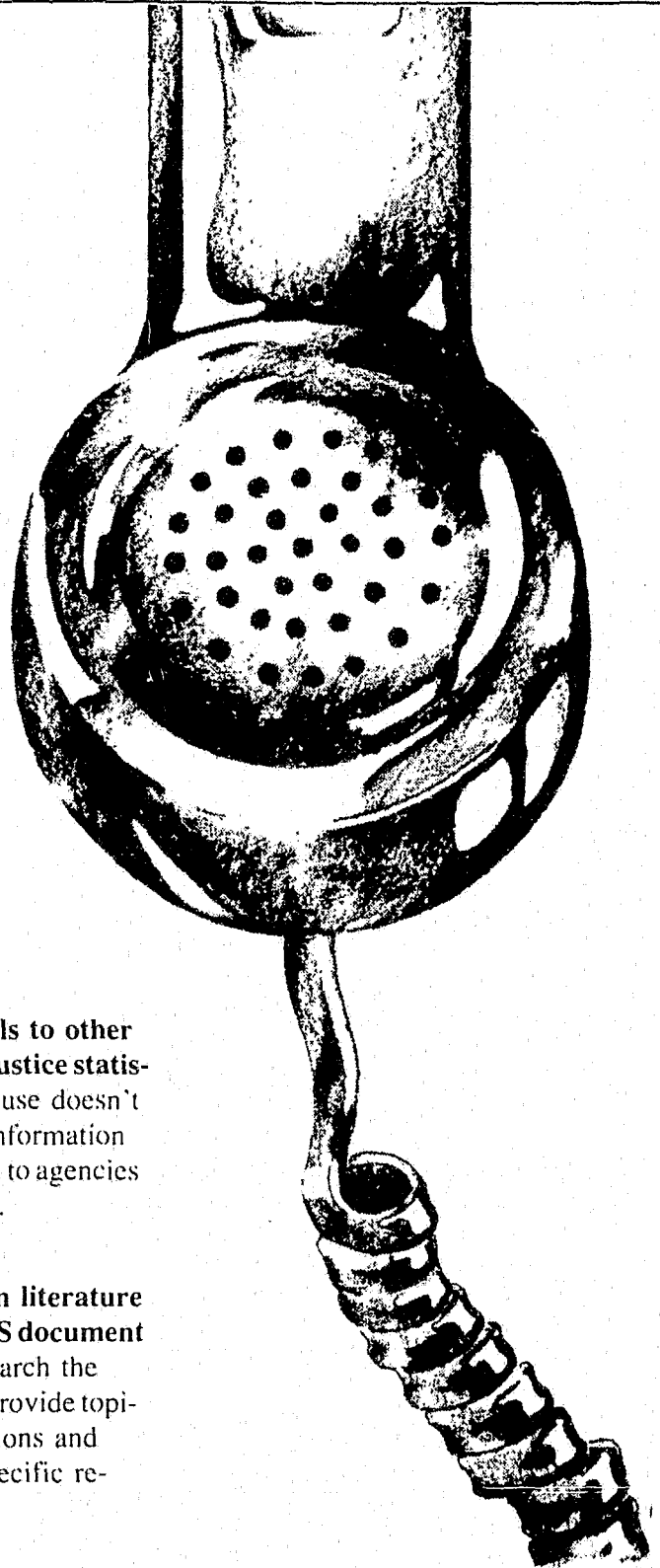
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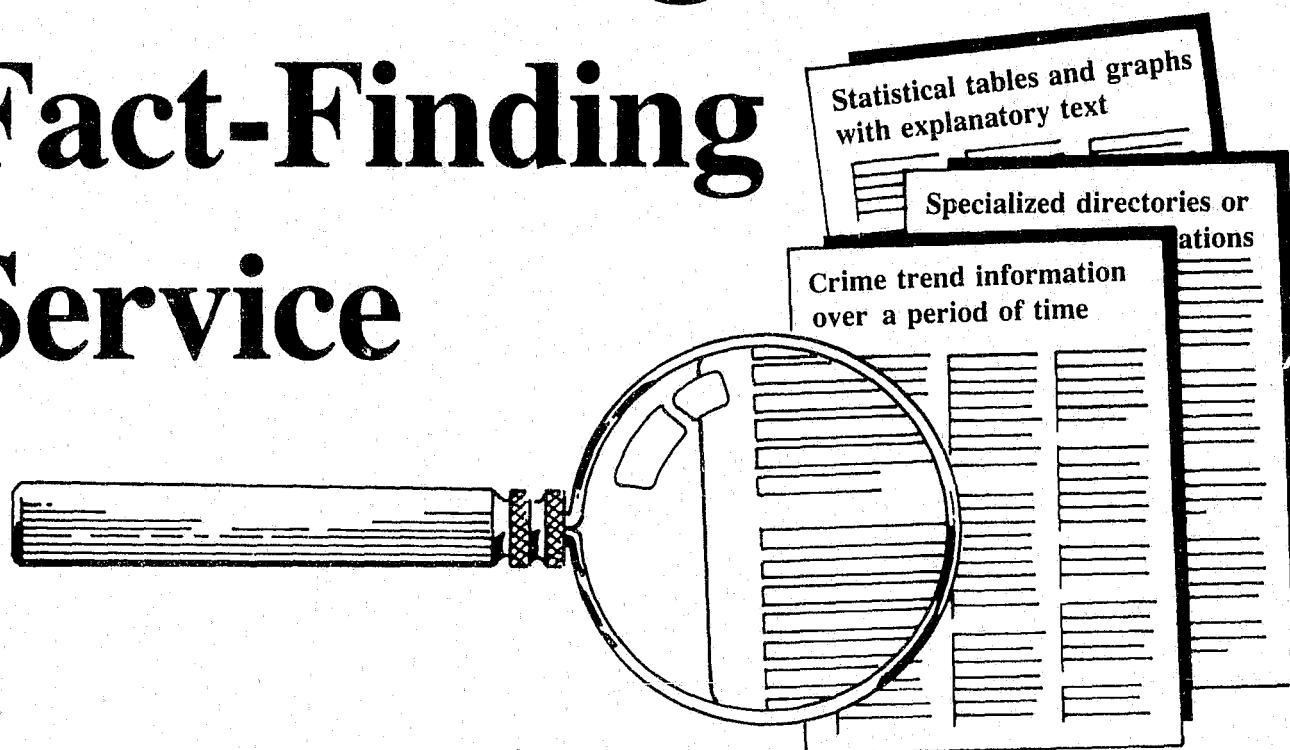
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