

Bureau of Justice Statistics Bulletin

Capital Punishment 1982

Two persons were executed during 1982, one each in Virginia and Texas, bringing to six the total executed since 1967. All six took place after the last major U.S. Supreme Court rulings on the death penalty in 1976.¹ By year's end, the number of inmates under sentence of death stood at 1,050, the largest ever recorded in the Nation.² The number of persons sentenced to death during the year was 264—higher than in any other year except 1975—while departures from death row by means other than execution fell to 68, one of the smallest totals in recent history.

The large number of persons on death row at the end of 1982 reflected both an increase in the number of death sentences handed down over the years and lengthened stays because of long appeals. The 264 persons sentenced to death in 1982 represented an increase of 8% over the number condemned in 1981. Twenty-eight of the 37 States with death penalty laws sentenced inmates during 1982. The largest number of sentences were handed down in California and Florida, each with 39 persons, followed by Texas³ with 28 and Alabama with 20. Ohio and Wyoming were the only States that sentenced persons during 1982 but not 1981. A new death penalty law was passed in Ohio during 1981.

Since 1976, the number of removals from death row has dropped each year with the exception of 1980, when 42 persons were relieved of the death sentence in Alabama as the result of a

¹A seventh person was executed in Alabama on April 22, 1983. All of the seven were men.

²The 1982 figures exclude 6 men with military death sentences held under Armed Forces jurisdiction.

³The figures for Texas and Georgia on the table on page 2 exclude condemned inmates still held in county jails but will be revised to include them as they enter the State correctional system.

The capital punishment series began in 1930 with an annual report of the number of executions in each State. Several significant additions to the series have been made over the years. Beginning in 1953, statistics were published on the death-row population at yearend. In subsequent years, the series was expanded to include the number and characteristics of persons sentenced to death each year including age, sex, race, marital status, and education. Statistics were also published on the offender's previous homicide or other felony convictions and on whether the offender was in prison, on probation, or on parole at the time of the capital offense. The frequen-

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cy of judicial and legislative action on capital punishment in the 1970's led to the annual collection of information on the legal status of the death penalty in each State. More recently, the Bureau of Justice Statistics began collecting information on those States that subject each death sentence to automatic appeal and on the minimum age at which an offender may be sentenced to death.

The complete series of capital punishment statistics is published in an annual report that may be obtained by request from the Bureau of Justice Statistics.

Steven R. Schlesinger
Director

major court decision. The relationship between removals and additions has varied from year to year, but by 1982 about four persons received the death sentence for every one relieved of it.

During 1982, only 16 States had departures from death row, 5 fewer than in 1981. The largest number of removals occurred in Texas (24) and Florida (13); each of the remaining 13 States granted 6 or fewer removals (departures prompted by legislative or judicial action).

About half of the 64 persons who left death row by means other than death had both their convictions and their sentences vacated, while the next largest group, 31%, had only their sentences vacated. Six deaths occurred among the condemned population, including two executions, three murders, and one suicide. The total

number of persons who have died on death row since 1972 is 32, including the six who were executed.

The 1,050 persons awaiting the death penalty at yearend 1982 was almost double the record high on death row at the time of *Furman v. Georgia*, 408 U.S. 238, in 1972, and 2-1/2 times the number on death row at the end of 1976, the year from which most of the current laws date. More than two-thirds of the 1982 total were held in Southern States. Only one Northeastern State, Pennsylvania, held prisoners on death row. The largest numbers were under sentence in Florida (189), Texas (148), California (120), and Georgia (100). In all, 31 of the 37 States with the death penalty held at least one condemned prisoner at yearend.

About 40% of those under sentence

Status of death penalty statutes and prisoners under sentence of death, by region and State, 1982						
Region and State	Death penalty in force as of 12/31/82	Prisoners under sentence of death 12/31/81	Changes during 1982			Prisoners under sentence of death 12/31/82
			Received under death sentence	Removed from death row	Executed	
United States	...	856	264	68 ¹	2	1050
Male	...	845	262	66	2	1037
Female ²	...	11	4	2	0	13
Federal ³	Yes	0	0	0	0	0
State	...	856	264	68	2	1050
Northeast	...	16	9	0	0	25
Maine	No	0	0	0	0	0
New Hampshire	Yes	0	0	0	0	0
Vermont	Yes	0	0	0	0	0
Massachusetts	No	0	0	0	0	0
Rhode Island	No	0	0	0	0	0
Connecticut	Yes	0	0	0	0	0
New York	Yes	0	0	0	0	0
New Jersey ³	Yes	0	0	0	0	0
Pennsylvania	Yes	16	9	0	0	25
North Central	...	77	26	3	0	100
Ohio	Yes	0	3	0	0	3
Indiana	Yes	10	5	0	0	15
Illinois	Yes	41	10	2	0	49
Michigan	No	0	0	0	0	0
Wisconsin	No	0	0	0	0	0
Minnesota	No	0	0	0	0	0
Iowa	No	0	0	0	0	0
Missouri	Yes	14	8	1	0	21
North Dakota	No	0	0	0	0	0
South Dakota	Yes	0	0	0	0	0
Nebraska	Yes	12	0	0	0	12
Kansas	No	0	0	0	0	0
South	...	617	157	61	2	711
Delaware	Yes	4	1	0	0	5
Maryland	Yes	8	7	1	0	14
District of Columbia	No	0	0	0	0	0
Virginia	Yes	17	4	1	1	19
West Virginia	No	0	0	0	0	0
North Carolina	Yes	17	12	1	0	28
South Carolina	Yes	21	2	6	0	17
Georgia	Yes	95	8	3	0	100
Florida	Yes	163	39	13	0	189
Kentucky	Yes	9	6	2	0	13
Tennessee	Yes	22	8	1	0	29
Alabama	Yes	16	20	0	0	36
Mississippi	Yes	27	10	0	0	37
Arkansas	Yes	23	3	2	0	24
Louisiana	Yes	14	1	2	0	13
Oklahoma	Yes	36	8	5	0	39
Texas	Yes	145	28	24	1	148
West	...	146	72	4	0	214
Montana	Yes	3	0	0	0	3
Idaho	Yes	2	5	0	0	7
Wyoming	Yes	0	3	0	0	3
Colorado	Yes	1	1	0	0	2
New Mexico	Yes	3	2	0	0	5
Arizona	Yes	38	15	2	0	51
Utah	Yes	3	0	0	0	3
Nevada	Yes	12	5	0	0	17
Washington	Yes	1	2	0	0	3
Oregon	No	0	0	0	0	0
California	Yes	83	39	2	0	120
Alaska	No	0	0	0	0	0
Hawaii	No	0	0	0	0	0

NOTE: Some of the figures for yearend 1981 are revised from those shown in *Capital Punishment 1981* (final report), December 1982, NCJ-86484. These figures exclude 5 inmates in Texas who were relieved of the death sentence before December 31, 1981, and 1 in Pennsylvania who was reported twice—first in 1979 and again in 1981, and include 24 inmates (6 in Pennsylvania, 6 in Texas, 4 in Georgia, 4 in Louisiana, 2 in Florida, 1 in Tennessee, and 1 in Washington) who, although sentenced to death before the end of 1981, were either reported late to the

NPS program or were not in the custody of State correctional authorities by December 31, 1981.
¹Includes one Maryland inmate who committed suicide and three inmates (one each in Arizona, Oklahoma, and South Carolina) who were murdered by another inmate.
²Excludes six prisoners held under Armed Forces jurisdiction.
³The death penalty was in effect in New Jersey as of August 6, 1982.

were blacks, roughly the same proportion as in recent years. Twelve members of other races were under sentence—seven American Indians and five Asians.

Twelve States, the largest number since data became available in 1978, held a total of 59 Hispanic inmates under sentence of death. During the 1978-83 period, the number of Hispanics increased more rapidly than the death-row population as a whole—3-1/2 times versus 2.

There were 13 women on death row in eight States, including 4 in Georgia. The number was the highest since data on women have been available. Since 1972, 12 States have sentenced 31 women to death, but 24 women, including 6 sentenced before 1972, have had their capital sentences lifted.

The number of persons on death row was more than double that in 1968, when a sharp increase began because of an informal moratorium on executions. The moratorium allowed the courts to scrutinize the many challenges to the death penalty then being raised at all levels, culminating in the landmark *Furman v. Georgia* decision in June 1972. In that decision, the High Court held that death penalty statutes as they currently existed were in violation of the Eighth Amendment's protection against cruel and unusual punishment. While the more than 600 persons then on death row waited to have the new ruling applied to them individually, the States began to revise their laws to withstand the Court's scrutiny.

Inasmuch as the *Furman* decision provided little in the way of guidelines for new legislation, the years that immediately followed it saw a number of attempts and failures by the States to meet standards acceptable to the Supreme Court. These standards emerged gradually through a series of rulings by the Court, mainly in 1976 and 1977. Most current capital punishment legislation, in fact, dates from 1976, modeled after the laws of Georgia, Florida, and Texas that were upheld in rulings during that year.

Today's death penalty laws provide the death sentence only for specific types of murder, for example, murder committed during a felony, murder of a law enforcement officer, and murder for hire.⁵ They also provide for

⁴*Gregg v. Georgia*, 428 U.S. 153 (1976); *Proffitt v. Florida*, 428 U.S. 242 (1976); *Jurek v. Texas*, 428 U.S. 262 (1976).
⁵In addition to specific types of murder, each of the following crimes, most of which have not passed tests of constitutionality at the U.S. Supreme Court level, is a capital offense in at least one State: aircraft piracy resulting in death, armed robbery resulting in death of the (continued on page 3)

"guided discretion," laying down specific guidelines to assist the sentencing judge or jury in weighing both aggravating and mitigating circumstances to the crime. Thus the Court struck a balance between the wide discretion allowed before *Furman* and the rigidity of mandatory death penalty laws passed in response to *Furman* but found unconstitutional in several rulings during 1976.

The years that followed the 1976 Supreme Court decisions saw a number of refinements added to the established standards. In 1977, the death sentence was found to be a disproportionate penalty for the rape of an adult woman. Other rulings have held that the capital prisoner is to be afforded every possible legal right, such as the right to have all mitigating circumstances to the crime considered at the time of sentencing.

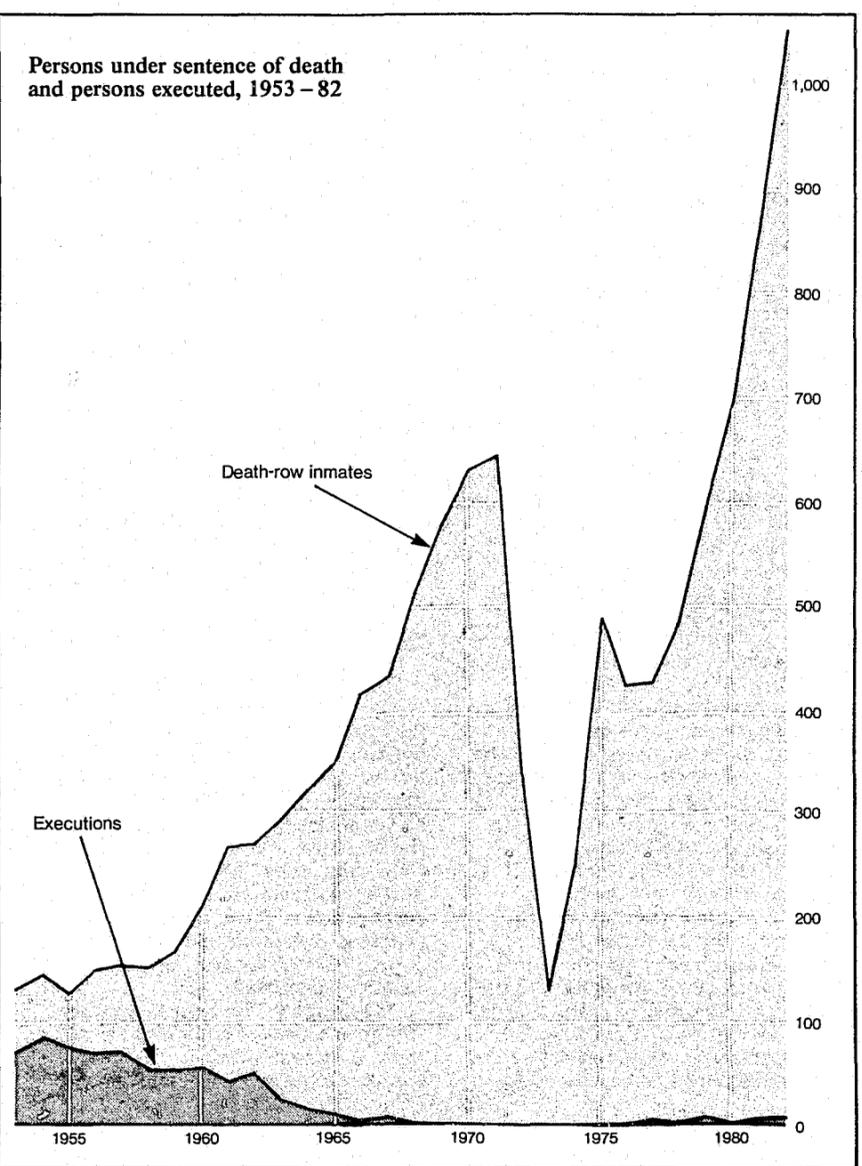
By the end of 1982, 37 States and the Federal government provided for the death penalty. During the year, New Jersey was added to the list when it enacted a new death penalty law; its previous law had been declared unconstitutional in 1972. For the first time since the *Furman* ruling, no State's death penalty law had been overturned.

Seven other States made either substantive or procedural changes in their statutes. Arizona provided for a separate sentencing hearing. Idaho added death by a firing squad as an alternative to lethal injection. Nebraska limited the death penalty to those age 18 or older at the time of the crime. Oklahoma further specified the types of murder that constituted capital offenses. South Dakota refined the section of its death penalty law on aggravating and mitigating circumstances. In Utah, revisions were made to the sections dealing with the sentencing hearing and the nature of the jury for that hearing. Virginia made its law more specific by revising the language on murder committed by an inmate confined in a State or local correctional facility.

In addition to legislative actions, a number of court decisions at both the State and Federal level had some impact on the death penalty situation.

In January 1982, the California Supreme Court ruled in *California v. Ramos* that the required instruction to sentencing juries that a life sentence without parole could be commuted by

⁵(Continued from page 2) victim, assault by a life prisoner resulting in death, hindering preparation for war causing death, kidnaping resulting in severe injury, kidnaping resulting in death, murder by a life prisoner, murder by an inmate of a correctional facility, omitting to note defects in articles of war resulting in death, perjury resulting in the death penalty, rape of a child under age 12, and rape of a child under age 14.



Number of women on death row, yearend 1972-82											
State	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
United States	4	3	3	8	7	6	5	7	9	11	13
Alabama	-	-	-	-	-	-	1	1	-	1	1
California	3	-	-	1	2	-	-	-	-	-	-
Florida	-	-	-	-	1	1	1	1	1	-	-
Georgia	1	2	1	1	1	1	1	2	3	4	4
Kentucky	-	-	-	-	-	-	-	-	1	1	-
Maryland	-	-	-	-	-	-	-	-	-	1	2
Mississippi	-	-	-	-	-	-	-	-	-	-	1
Nevada	-	-	-	-	-	-	-	-	-	-	1
North Carolina	-	1	2	3	-	-	2	1	1	1	1
Ohio	-	-	-	2	3	4	-	-	-	-	-
Oklahoma	-	-	-	1	-	-	-	1	1	1	1
Texas	-	-	-	-	-	-	-	1	2	2	2

the Governor was unconstitutional. However, removal of potentially affected prisoners from death row was suspended pending a review by the U.S. Supreme Court.

In Eddings v. Oklahoma, the U.S. Supreme Court determined that the failure of the State court to consider as a mitigating circumstance a 16-year-old's emotional disturbance and turbulent family history was unconstitutional. The Supreme Court stipulated that sentencing and reviewing courts may determine the weight to be given relevant mitigating circumstances, but that they may not exclude such evidence totally.

In State v. Logan, South Carolina's Supreme Court decided that the State could not try a defendant for capital murder under death penalty statutes that had been declared unconstitutional before the date of the crime. The State had contended that, since only procedural changes were needed to render the old death penalty statutes constitutionally acceptable, the substantive provisions of the law should be considered as if in effect at the time of the murder. The South Carolina Supreme Court, however, held that the death penalty statute in existence when the crime was committed could not be enforced, and that to try the defendant under such circumstances would violate constitutional guarantees against the application of *ex post facto* laws.

At the end of 1982, Arkansas, New Jersey, New York, and the Federal system were the only jurisdictions whose death penalty statutes did not require an automatic appeal. Some State laws provide for a review of the sentence, while others require a review of both conviction and sentence.

In most States, the youngest age at which a person can be sentenced to

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death is the age at which they can be tried as an adult. Since in many States this age standard can be waived, the theoretical minimum age for the imposition of the death penalty ranges from age 10 (Indiana) to age 18. Sixteen States reported no minimum age for the imposition of the death penalty.

Methodological note

Data on persons under sentence of death are collected annually for the Bureau of Justice Statistics by the U.S. Bureau of the Census as part of the National Prisoner Statistics (NPS) program. Data are obtained from the departments of corrections in each of the 50 States and the District of Columbia. The Bureau of Justice Statistics gratefully acknowledges the cooperation of State officials whose generous assistance and unfailing patience make National Prisoner Statistics possible.

Statistics in this series may vary from other death-row counts for any of the following reasons:

• Inmates are not added to the NPS

death-row counts at the time the court hands down sentence, but at the time they are admitted to a State or Federal correctional facility.

• 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 dates the finding is applied to individual cases. Thus, persons who are technically under sentence of death, but who are no longer at risk, are not counted.

• NPS death-row counts are always as of the last day of the calendar year and will therefore differ from estimates made for more recent periods.

Further reading

A final report on the death-row population in 1982 will be published in late 1983. To obtain the final 1982 report, Capital Punishment 1982, or be added to the bulletin mailing list, write to the National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850 (301/251-5500). Other National Prisoner Statistics Bulletins include—

- Veterans in Prison, October 1981, NCJ-79232;
- Prisons and Prisoners, January 1982, NCJ-80697;
- Death-row Prisoners 1981, July 1982, NCJ-83191;
- Prisoners 1925-81, December 1982, NCJ-85861;
- Prisoners and Alcohol, January 1983, NCJ-86223;
- Jail Inmates 1982, February 1983, NCJ-87161;
- Prisoners and Drugs, March 1983, NCJ-87575;
- Prisoners in 1982, April 1983, NCJ-87933.

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