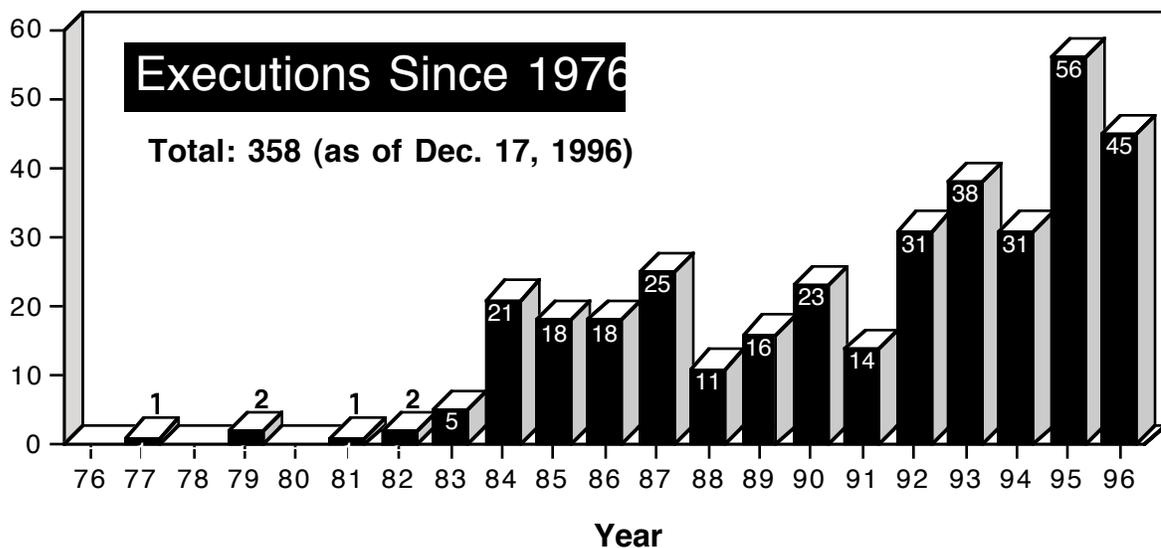


The Death Penalty in 1996: Year End Report

Death Penalty Information Center
December 1996

Executions in 1996 Second Highest Since 1976

The overall pace of executions in the United States remained high in 1996 and the prospects for the future are for even greater numbers of people put to death each year. As of December 17, there were 45 executions, mostly by lethal injection. This represents a slight drop from last year when 56 executions represented the highest number since capital punishment was reinstated in 1976. The 20% decrease in executions this year was probably due to the passage of numerous federal and state laws designed to speed up executions. Some of these new laws created a legal logjam as courts considered the constitutionality of the curtailed appeal process.



Texas, the nation's leader in executions for many years, virtually stopped executions this year pending resolution of a challenge to the state's new appeal laws. Once that matter is resolved, Texas will likely renew and even accelerate its frequent executions. On the federal level, Congress passed the Antiterrorism and Effective Death Penalty Act of 1996 which will make it increasingly difficult for even innocent defendants on death row to secure federal review. Congress also eliminated all money for the death penalty resource centers which had been overseeing a major portion of death penalty appeals. Both of these pieces of legislation will result in less thorough representation for those on death row.

This year, the five states with the largest death rows (California, Texas, Florida, Pennsylvania and Illinois) together were responsible for only 8 executions. But these

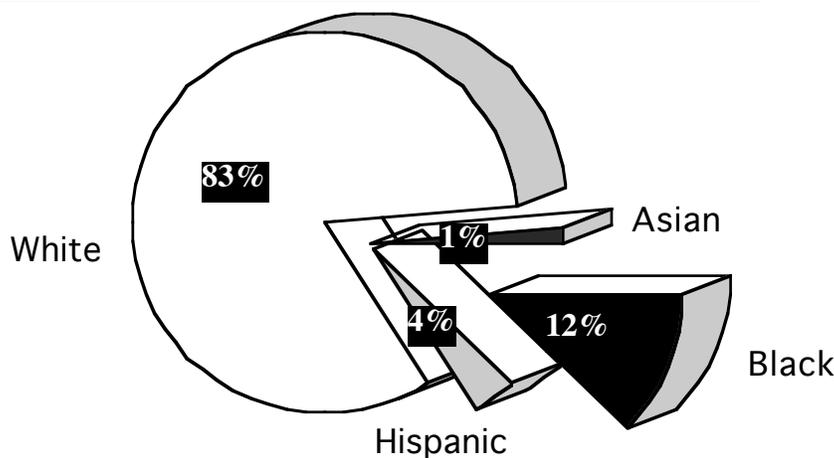
same states have over 1,500 people on death row, indicating that the likelihood for increased executions in the near future is great.

| <u>States With Most Executions Since 1976</u> | | <u>States With Highest Per Capita Execution Rate</u> (per 100,000 pop. since 1976) | | <u>States With Most Executions in 1996</u> | |
|---|-----|---|------|--|---|
| Texas | 107 | Delaware | 1.20 | Virginia | 8 |
| Florida | 38 | Texas | 0.63 | South Carolina | 6 |
| Virginia | 37 | Virginia | 0.60 | Missouri | 6 |
| Missouri | 23 | Louisiana | 0.55 | Delaware | 3 |
| Louisiana | 23 | Arkansas | 0.51 | Texas | 3 |

Racial Disparities Even More Prominent

Although the number of people executed varies from year to year, the typical death row inmate remains the same. He is likely to be a poor man who never graduated from high school. He is likely to be a member of a minority. And with only rare exceptions, he has been convicted of murdering a white person. Almost all of the executions this year involved a case with a white victim in the underlying murder. Of the 45 executions carried out this year, only 4 involved the murder of a black victim, even though blacks are murdered as often as whites in the U.S. (one additional case involved black and white victims). No white person was executed this year for the murder of a black person, while ten black men were executed for crimes involving white victims. This sends a message that black lives are worth less than white lives. Since the death penalty was reinstated, 90 black men have been executed for the murder of a white victim, while only 4 white men have been executed for the murder of a black victim.

Race of Victims: Almost All Capital Cases Involve White Victims



Since 1976

In Kentucky, a recent study found that *none* of the people on that state's death row were there for the murder of a black person, despite the fact that there have been over 1,000 blacks murdered in Kentucky since the death penalty was reinstated. Legislation to prevent further racial injustice failed by one vote in the state legislature.

The federal death penalty continues to be targeted mainly at minorities. Almost 80% of those for whom the federal government sought the death penalty under either the "drug kingpin law" of 1988 or the 1994 Crime Bill have been black or Hispanic.

Death Penalty Reality Often Differs from Expectations

Many of those executed in 1996 did not fit the stereotype of death row inmates as repeat killers who stalk strangers. In fact, many of the cases this year involved murders by close acquaintances of the victim:

- **William Flamer** was executed in Delaware for killing his aunt and uncle.
- **Jeffrey Paul Sloan** was executed in Missouri for murdering his brother and was suspected of killing other family members.
- **James Clark** was executed in Delaware for killing his adoptive parents.
- **Joseph Savino** was executed in Virginia for the murder of his male lover when the relationship went sour.
- **Fred Kornahrens** was executed in South Carolina for killing his ex-wife, her father and her 10-year-old stepson. Kornahrens said he went out of control when his marriage broke up.
- **Emmett Nave** was executed in Missouri for murdering his landlady after confrontations about his apartment.
- **Thomas Battle** was put to death in Missouri for the murder of an 82-year-old neighbor who had befriended him.
- **William Frank Parker** was executed in Arkansas for murdering the parents of his former wife. He also shot his wife, but she survived.
- **Joe Gonzales** was executed in Texas only ten months after his conviction for murdering his former boss. Gonzales acted as his own attorney and waived his appeals.
- **Richard Zeitvogel** was executed in Missouri for the murder of a fellow prisoner. The prosecution said he murdered because he *wanted to be placed on death row*.

The most prominent capital case involving family members has been evolving this year in Delaware, the nation's per capita leader in executions. When 18-year-olds Amy Grossberg and Brian Peterson were accused of murdering their newborn infant, Delaware immediately announced that it would seek the death penalty against both of them, without full knowledge of their mental state or other crucial information.

Election Year Politics

This year was an election year, and the death penalty was the focus of both highly publicized punitive legislation and campaigns demanding swifter executions. Bob Dole campaigned in front of California's death row and criticized President Clinton's appointment of judges as soft on crime. Clinton responded by emphasizing his commitment to less federal review for death row inmates. Congress cutback the opportunity for federal habeas corpus and completely defunded the death penalty resource centers. States, too, pushed for more executions. Virginia, Pennsylvania and

Ohio, for example, set multiple execution dates for defendants who had not yet completed their normal appeal. This manipulation of execution dates puts additional burdens on the justice system, since every death warrant results in litigation over a stay of execution, independent of the appeal arising from errors in the case.

Electoral races in which the death penalty played a prominent role produced mixed results, with some candidates surviving attacks based on their reservations about capital punishment. Sen. John Kerry of Massachusetts was re-elected in the face of Gov. William Weld's attack on his opposition to the death penalty. In California, Representatives Vic Fazio and Walter Capps were elected to the U.S. House of Representatives, even after extreme accusations that attempted to align them with the murderer of young Polly Klass.

Politicization of judicial selection intensified. One of the latest victims was Tennessee Supreme Court Justice Penny White. White lost her position on the court after a single death penalty decision in which she *upheld* the conviction of a death row inmate, but joined a decision by other justices overturning the death sentence. A conservative anti-tax group mounted a successful campaign against White, erroneously charging her of being weak on crime because of this single decision.

Twenty Years of Capital Punishment

This year marked the 20th anniversary of the Supreme Court's decision in *Gregg v. Georgia* upholding the constitutionality of the death penalty under newly passed statutes. However, many of the problems which the Court had identified in the application of earlier capital punishment laws, such as its arbitrariness, racial discrimination and the potential for fatal mistakes, still remain.

Innocence: Four more inmates were released from death row in 1996 after charges against them were dropped: Verneal Jimerson (Illinois), Dennis Williams (Illinois), Roberto Miranda (Nev.) and Troy Lee Jones (Calif.). This brings the total number of death row inmates released since 1973 because of evidence of their innocence to 66. In addition, two other death row inmates had their sentences commuted to life because of strong doubts about their guilt: Donald Paradis (Idaho) and Joseph Payne (Virginia). At least four other death row inmates (Joseph Spaziano (Fla.), Donald Gunsby (Fla.), Kerry Max Cook (Tex.) and Lloyd Schlup (Mo.)) had their convictions overturned in 1996 and will either be retried or permanently freed from death row.

Prosecutors Indicted: In Illinois, three former prosecutors (one of whom is now a state circuit judge) were indicted for obstructing justice in the mistaken death penalty prosecution of Rolando Cruz and Alejandro Hernandez. Cruz and Hernandez were released in late 1995 after spending years on death row for a crime they did not commit. The indictments allege that the prosecutors and police officers knowingly presented false information and proceeded with the case against individuals whom they should have known were innocent.

Volunteers: An unusually high number of inmates gave up their appeals this year, thereby "volunteering" for execution. Ten of the 45 people executed this year waived

their remaining appeals, including three in South Carolina. (Forty-seven of the 358 persons executed since 1976 have waived their appeals.) The isolated and demeaning conditions on death row, coupled with discouragement over an ever narrower appeal process and the lack of representation, seems to be leading more inmates to take part in state-assisted suicide.

Methods of Execution: One man was executed by a firing squad (John Taylor in Utah) and one man was hung (Billy Bailey in Delaware). Seven people were executed in the electric chair, and the remainder were executed by lethal injection. This latter method has been promoted as more humane, but the lethal injection of Tommie Smith in Indiana this year took one hour and seventeen minutes. The executioner could not find a vein in which to inject the poison chemicals. A doctor was summoned, and eventually the lethal injection was made through Smith's leg.

International Trends: The International Commission of Jurists released a report highly critical of the death penalty in the United States, based on its visit here. The report, entitled *Administration of the Death Penalty in the United States*, states: "By ratifying the Political Covenant and the Race Convention, the United States has accepted to submit its system of punishment for criminal offenses to the judgment of international opinion; and opinion in the Western democracies is unanimous that the death penalty offends civilised standards of decency." The Commission particularly singled out the racial disparities and due process violations evident in the use of the death penalty in the U.S.: "The Mission is of the opinion that . . . the administration of capital punishment in the United States continues to be discriminatory and unjust -- and hence 'arbitrary' --, and thus not in consonance with Articles 6 and 14 of the Political Covenant and Article 2(c) of the Race Convention."

Other international rights groups, including Human Rights Watch and Amnesty International, issued reports before this year's Olympics in Atlanta criticizing the death penalty in the U.S.

Who Were Executed?

As usual, the death penalty in practice looks different from the death penalty in theory. Here are descriptions of a few who were executed in 1996:

Walter Correll - The first man executed this year was an inmate in Virginia with mental retardation. Correll had an IQ of 68. His two co-defendants blamed the murder on him and received lighter sentences.

Richard Townes, Jr. - The second man executed this year was also from Virginia. Mr. Townes represented himself at trial, questioned no witnesses, and presented no mitigating evidence regarding sentencing. The jury did not know that, had he been sentenced to life, he would never have been eligible for parole. The executioners searched 22 minutes for a suitable vein before injecting the poisonous chemicals into his foot.

Billy Bailey - Bailey was hung in the state of Delaware in January, the first hanging there in 50 years. Bailey's legs were tied with rope, and he wore a black hood which

reached to his waist. When the trap door below Bailey was sprung, he dropped and twisted before being pronounced dead by a doctor.

John Taylor - was executed by firing squad in Utah in January. Five state law enforcement officers were paid \$300 each to fire their rifles at Taylor's heart, which was marked by a white circle on his blue jumper. One of the five marksmen fired a blank. Taylor waived his appeals and asked to be executed by firing squad, just as the first person executed after the death penalty's reinstatement, Gary Gilmore, was also shot in Utah at his own request.

Stephen Hatch - was executed in Oklahoma for two murders in conjunction with a robbery. Hatch's co-defendant, the actual killer in this case, was sentenced to life in prison. Members of the victims' family watched the execution, thanks to a new law sponsored by one of the family who is now a state senator in Oklahoma. Allowing the victim's family members to view executions became a trend this year.

Ellis Wayne Felker - was electrocuted in Georgia this year. Felker's case attracted attention when the U. S. Supreme Court agreed to hear, on an expedited basis, his challenge to the new law curtailing federal review. Felker won his request to be able to file for review with the Supreme Court, despite apparent restrictions in the new law to such an approach. However, the Supreme Court did not accept his claim that new evidence of his innocence should stop his execution.

Commentary: Some Signs of Change

Although there were many executions in 1996, the long-predicted "flood" of executions has not occurred, and there was some movement away from the death penalty. The movie *Dead Man Walking* received wide acclaim and an Academy Award, generating much discussion about the wisdom of capital punishment. Sister Helen Prejean, the principal figure portrayed in the movie, traveled the country, engaging audiences with her stories and message of reconciliation. Rev. Jesse Jackson's first book, written with his son, Congressman Jesse Jackson, Jr., focused on the myriad of inequities presented by the death penalty in the United States. And shortly before his own death, Cardinal Joseph Bernadin, a strong opponent of capital punishment, demonstrated an act of compassion by visiting death row inmate Raymond Stewart in Illinois before Stewart was executed.

Virginia, which led the country in executions this year, saw its juries start to turn away from the death penalty once the alternative of life without parole became available to them. Only one person has been sent to death row in Virginia since the new sentence was instituted, whereas six people had been sentenced to death the year before, and ten the year before that. Indiana and Georgia, two other states which have recently instituted life-without-parole statutes, have also experienced a decline in death sentences. In Indiana, only 2 of 19 completed capital cases have resulted in a death sentence since its new law took effect in 1993. This positive movement away from the death penalty is in line with support in opinion polls for life-without-parole as an alternative to the death penalty.

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The Death Penalty Information Center is a non-profit organization serving the media and the public with analysis and information regarding capital punishment. The Center provides in-depth reports, conducts briefings for journalists, promotes informed discussion and serves as a resource to those working on this issue. This report was written by Richard C. Dieter, Executive Director of the Center. The sources for information in this year end report are available from the Center.