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## Bureau of Justice Statistics Bulletin

# Capital Punishment 1988

NCJRS

Six States executed 11 prisoners during 1988, bringing the total number of executions to 104 since 1976, the year that the U.S. Supreme Court reinstated the death penalty. Those executed during 1988 had spent an average of 6 years and 8 months awaiting execution.

During 1988, 296 prisoners under sentence of death were received by State prison systems from the courts. One hundred and sixteen persons had their death sentences vacated or commuted during the year, and 12 died while under a death sentence. At yearend, 34 States reported a total of 2,124 prisoners under sentence of death, an 8% increase over the number held at the end of 1987. One prisoner was under a death sentence for other than a murder (an inmate admitted during 1986 for the capital rape of a child in Mississippi); the remainder had all been convicted of murder. The median time since the death sentence was imposed for the 2,124 prisoners was 3 years and 9 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 had a 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 (1,238) were white (58.3%); 853 were black (40.2%); 21 were American Indian (1.0%); and 12, Asian (.6%). Twenty-three of those under a death sentence were female (1.1%). The median age of all inmates under a death sentence was nearly 33 years.

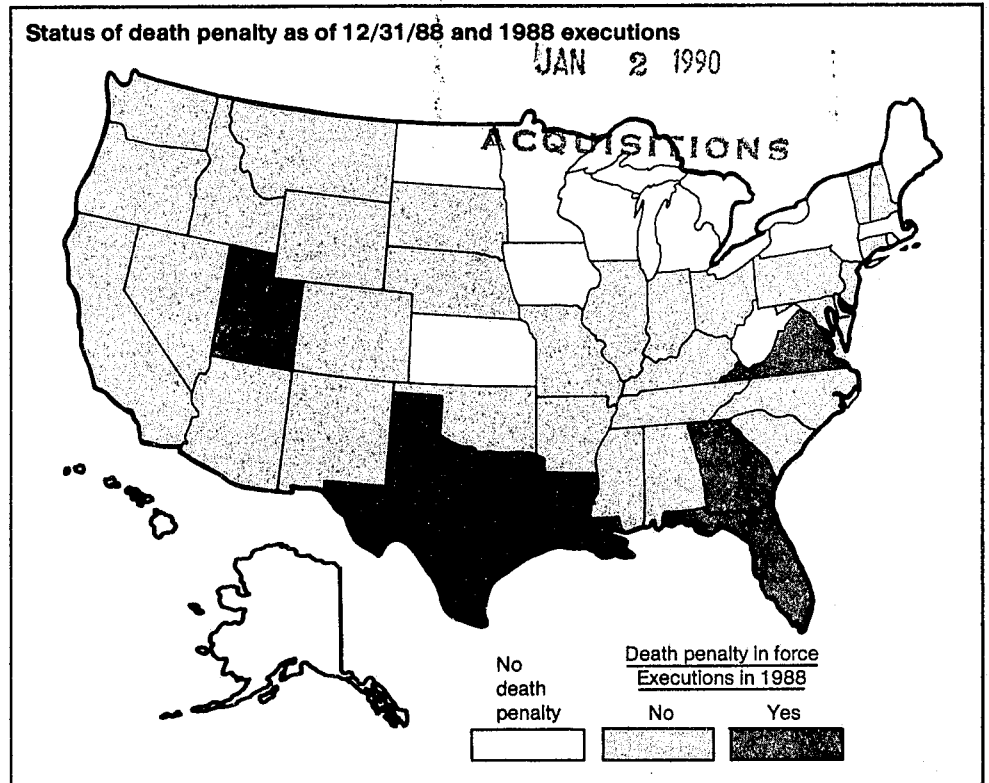


Figure 1

About 59% of those under sentence of death were held by States in the South. Western States held an additional 19%; Midwestern States, 16%; and the Northeastern States of Connecticut, New Jersey, and Pennsylvania, just under 6%. Florida had the largest number of condemned inmates (295), followed by Texas (284), California (229), Illinois (118), and Pennsylvania (98).

During 1988, 29 State prison systems received prisoners under sentence of death from courts. Florida (42 admissions), Texas (34 admissions), and California (32 admissions) accounted for more than 36% of the inmates entering prison under a death sentence during the year.

July 1989

The capital punishment statistical series has now completed 58 years of continuous Federal sponsorship. It is designed to provide detailed national information on prisoners under death sentences. This year's report contains appendixes on the current status of all those sentenced to death from 1973 to 1988 and on Federal death penalty statutes contained in the U.S. Code. BJS gratefully acknowledges the cooperation and participation of officials throughout the States whose generous assistance makes this reporting program possible.

Joseph M. Bessette  
Acting Director

The 11 executions in 1988 were carried out by 6 States: 3 each in Louisiana and Texas, 2 in Florida, and 1 each in Georgia, Utah, and Virginia. Six of those executed were white males and 5 were black males.

From the beginning of 1977 to the end of 1988, a total of 104 executions were carried out by 12 States. Of these, 63 were white (60.6%) and 41 were black (39.4%). Over the same period, 3,057 admissions under sentence of death occurred of which 1,793 were white (58.7%), 1,218 were black (39.8%), and 46 were of other races (1.5%). During the same years, 1,249 removals from a death sentence occurred as a result of dispositions other than execution (resentencing, retrial, commutation, or death while awaiting execution). Of those removed from a death sentence, 717 were white (57.4%), 519 were black (41.6%), and 13 were of other races (1.0%).

#### Capital punishment in the courts

In *Lowenfield v. Phelps, Secretary, Louisiana Department of Corrections, et al.* (decided January 13, 1988), the Supreme Court dealt with two death penalty issues: whether a death sentence may be imposed where a single aggravating circumstance is also an element of the definition of first-degree murder and whether, in this case, the judge had coerced verdicts from the jury after twice polling the jury on its ability to reach a verdict. The petitioner had been charged with killing five persons and was convicted of two counts of manslaughter and three counts of first-degree murder. The High Court found that the judge's polling of the jurors and additional instructions to the jury did not support a conclusion of coercion.

The jury's conclusion in the sentencing phase, that the offender had "knowingly created a risk of death or great bodily harm to more than one person," an aggravating circumstance, represented a finding that was nearly identical to an element of the first-degree murder conviction ("the offender has a specific intent to kill or to inflict great bodily harm upon more than one person"). The Court held that the parallel nature of these provisions was acceptable because the use of aggravating circumstances is intended to achieve a limiting or "narrowing" function for death-eligible cases — a function that can occur at either phase (guilt or sentencing) of a trial.

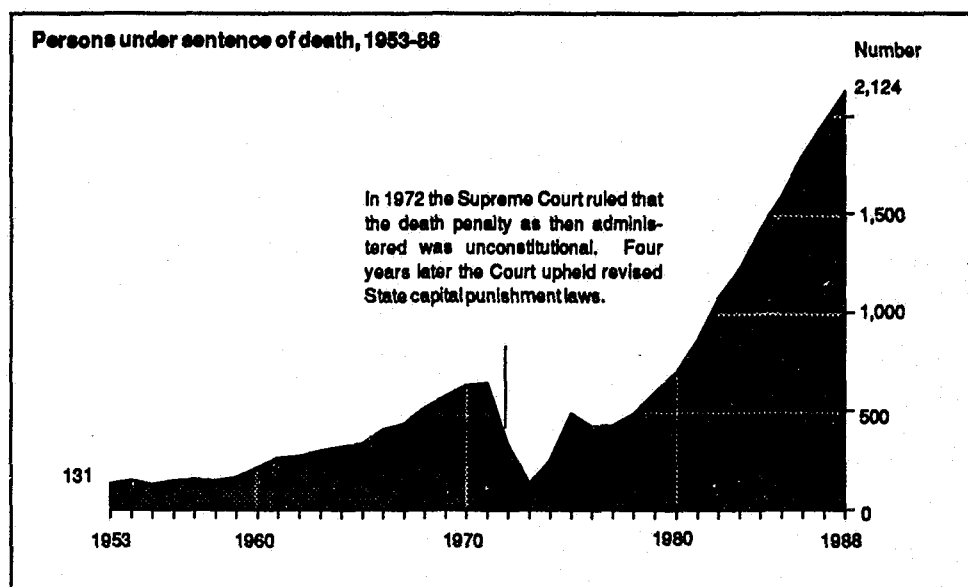


Figure 2

On May 31, 1988, the High Court dealt with the issue of the sixth amendment right to counsel in the case of *Satterwhite v. Texas*. In this robbery-murder case the State moved to have a psychiatrist evaluate the "future dangerousness" of the defendant without notifying defense counsel of the motion. The trial court granted the motion without determining whether the defense had been notified. After conviction for first-degree murder, the examining psychiatrist testified at the sentencing phase, over defense counsel's objection, that the offender presented a continuing threat to society, and the jury found that this aggravating factor was present beyond a reasonable doubt. The court, as required by State law, subsequently imposed a sentence to death.

The Supreme Court concluded that the trial court's failure to ensure that defense counsel was notified of the motion to conduct a psychiatric evaluation constituted reversible error, and the death sentence was vacated.

In an Oklahoma death penalty case, *Maynard, Warden, et al. v. Cartwright* (decided June 6, 1988), the Supreme Court considered two aspects of that State's capital punishment statutes. An ex-employee entered the home of his former employer, shot the employer's wife twice, shot and killed her husband, and subsequently slit the wife's throat and stabbed her twice. After conviction for the first-degree murder of the husband, the jury affirmed that two aggravating circumstances outweighed the mitigating circumstances — the defendant "created a great

risk of death to more than one person" and the murder was "especially heinous, atrocious, or cruel."

The High Court concluded that the language of the second aggravating circumstance was vague and left the jury with too much discretion in determining what specific heinous, atrocious, or cruel circumstances merited the death penalty.

The prosecution had contended that the death penalty should stand even if one of the aggravating circumstances were struck. The Supreme Court, however, affirmed an earlier ruling of the Court of Appeals, that the State had not devised procedures that would allow for a reweighing of the aggravating and mitigating circumstances. The case was remanded.

*Mills v. Maryland* (decided June 6, 1988) also dealt with the issue of aggravating and mitigating circumstances. The petitioner was convicted of the first-degree murder of a cellmate in a Maryland prison. The State established a single aggravating factor: the petitioner committed the murder while confined in a correctional institution. The defense contended that four mitigating factors existed: the petitioner was young, suffered from a mental infirmity, evidenced a lack of future dangerousness, and the State had failed to provide meaningful prison rehabilitation programs for him. The jury was given a verdict form and instructed by the judge on its use in their sentence deliberations.

The High Court found the verdict form and the judge's instructions on its use to be vague about whether juror unanimity was required on the existence of each mitigating factor. The jurors, who might have concluded that no mitigating factors existed because none received unanimous endorsement, thus may have determined that the one aggravating factor outweighed the absence of any mitigating factors when they imposed a death sentence. The Court noted that the possibility existed that the jurors may have erroneously given no weight to non-unanimous mitigating circumstances. The Court remanded the case for resentencing.

On June 13, 1988, the Supreme Court, in a case involving the murder of a Mississippi police officer, also addressed the application of aggravating circumstances at the sentencing phase (**Johnson v. Mississippi**). One of the aggravating circumstances — the petitioner had been "previously convicted of a felony involving the use or threat of violence to [another] person" — was based upon a 1963 conviction in New York State for second-degree assault with intent to commit first-degree rape. After the Mississippi Supreme Court affirmed the conviction and death sentence, the New York Court of Appeals reversed the 1963 conviction. The Mississippi Supreme Court refused post-conviction relief from the death sentence. The High Court, however, concluded that the vacated New York conviction invalidated the aggravating circumstance and reversed the death sentence.

**Franklin v. Lynaugh, Director, Texas Department of Corrections** (decided June 22, 1988) focused the Court's attention on the role of mitigating factors in jury instructions. After conviction for the robbery, abduction, and murder of a nurse, the petitioner submitted five "special requested" jury instructions to the trial court for the sentencing phase. The instructions were designed to focus the jury's attention on mitigating circumstances that the defense believed would offset the aggravating circumstances. The trial court, however, rejected these proposed instructions and, following State law, instructed the jury to consider whether the evidence supported conclusions beyond a reasonable doubt on two "special issues" — whether the murder was committed deliberately and with the reasonable expectation that death would result and whether the petitioner constituted a continuing threat to society. The court advised the jury that an affirmative

response to both would result in a sentence to death. After the jury answered "yes" to both special issues, a sentence of death was imposed.

On appeal, the defense contended that the trial court's failure to include the "special requested" instructions to the jury had limited the jury's consideration of mitigating circumstances. The Supreme Court, however, held that the rejection of the requested instructions had not hampered the jury from considering all mitigating evidence presented by the defense during the penalty phase, and the sentence was affirmed.

On June 22, 1988, the High Court affirmed the conviction and death sentence imposed in **Ross v. Oklahoma**. The defendant, convicted of the murder of a police officer during a motel robbery, contended that the jury selection process had been flawed due to the use of a peremptory challenge to remove a prospective juror who should have been removed for cause. The prospective juror had indicated that he would vote to impose a death sentence automatically upon conviction for first-degree murder. The Court concluded that the prospective juror should have been removed for cause, but because the prospective juror was never seated, and none of the 12 jurors actually seated was challenged for cause, the 6th and 14th amendment right to an impartial jury was satisfied.

**Thompson v. Oklahoma** (decided June 29, 1988) dealt with the issue of whether a death sentence, imposed on a murderer who was 15 years old at the time of the offense, violated the constitutional protection against cruel and unusual punishment. While five justices affirmed vacating the sentence, they did so for different reasons. Four justices concluded that the eighth amendment prohibited the execution of a person who was under age 16 at the time of the crime. Justice Sandra Day O'Connor, while concurring with the opinion, concluded that the Oklahoma statute violated the eighth amendment because it failed to specify a minimum eligible age within the capital punishment provisions.

On October 25, 1988, the Supreme Court of New Jersey decided a major death penalty case relating to the "intent to kill" provisions of the State's murder statute (**State of New Jersey v. Walter Gerald**). The case arose out of a residential burglary in which two murders occurred —

one of the victims was a disabled, 89-year-old male. The statute, N.J.S.A. 2C:11-3, defines murder as: (1) the actor purposely causes death or serious bodily injury resulting in death; or (2) the actor knowingly causes death or serious bodily injury resulting in death. The State's high court concluded that these two provisions were overly broad because of the inclusion of "knowingly or purposefully causing serious bodily injury resulting in death." The court expressed the view that such murders represented a lower degree of culpability than those in which a specific intent to kill was present. The court concluded that the statutory definition of murder was therefore insufficient to support a capital sentence. The court held that the conviction and sentence violated the State constitutional ban on cruel and unusual punishment.

In an opinion on **Wilson v. State of Arkansas**, delivered on June 6, 1988, by the Supreme Court of Arkansas, an aggravating circumstance relating to murders that were "especially heinous, atrocious, or cruel" was struck as unconstitutionally vague. The victim had been raped and robbed and died of slow strangulation after being bound by a telephone cord. Shortly afterwards, a second victim was raped and severely assaulted. The offender was convicted of nine felony counts, including capital murder.

The petitioner, in his appeal, contended that the vagueness of the aggravating circumstance, which had been added in 1985 to seven aggravating circumstances already specified, gave the jury excessive discretion when weighing the aggravating and mitigating factors. The court concluded that the provision failed to provide sufficient detail on the standards by which a jury should determine the presence of the aggravating circumstance and resented the offender to life without parole.

The Supreme Court of Arkansas, on July 11, 1988, also issued an important ruling related to mandatory appeal and waiver (**Franz v. State of Arkansas**). The Court concluded that mandatory review was not required and that a person sentenced to death may decline to seek an appellate review if his decision has been judicially determined to be a competent decision.

## Capital punishment laws

At yearend 1988 the death penalty was authorized by the statutes of 37 States and by Federal statute (table 1).<sup>1</sup> During the year, courts struck parts of statutes in three States:

- Arkansas' aggravating circumstance relating to murders that were "especially heinous, atrocious, or cruel" was determined to be unconstitutionally vague by the Supreme Court of Arkansas;

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

- Oklahoma's provision for a similar aggravating circumstance was struck by the U.S. Supreme Court; and

- New Jersey's definition of capital murder was struck by the Supreme Court of New Jersey.

No State enacted new legislation authorizing the death penalty during the year. The U.S. Congress, however, enacted a new law (21 U.S.C. §848(e)) authorizing capital punishment for intentional murders arising out of a continuing criminal enterprise.

### Statutory changes

Arkansas, Colorado, Missouri, Louisiana, and Virginia reported revisions to death

penalty statutes during 1988. Arkansas recodified its statute on the definition of capital murder by moving arson from the felony murder list to a new subsection. Colorado and Missouri changed the method of execution from lethal gas to lethal injection.

Louisiana changed the language contained in a number of sections relating to juries in capital cases — the changes shifted the jury decision from a recommendation to the judge to a determination by the jury of whether to impose the death penalty. Virginia changed the language of the rape-murder provision in the definition of capital murder.

**Table 1. Capital offenses, by State, 1988**

**Alabama.** Murder during kidnaping, robbery, rape, sodomy, burglary, sexual assault, or arson; murder of a 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-5-4D).

**Arizona.** First-degree murder.

**Arkansas.** Capital murder as defined by Arkansas statute (5-10-101). Felony murder; arson causing death; intentional murder of a law enforcement officer, murder of prison, jail, court, or correctional personnel, or military personnel acting in line of duty; multiple murders; intentional murder of public official or candidate; intentional murder while under life sentence; contract murder.

**California.** Treason; aggravated assault by a prisoner serving a life term; first-degree murder with special circumstances; train wrecking; perjury causing execution.

**Colorado.** First-degree murder; first-degree kidnaping with death of victim; felony murder.

**Connecticut.** 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.

**Delaware.** First-degree murder with aggravating circumstances.

**Florida.** First-degree murder.

**Georgia.** Murder; kidnaping with bodily injury when the victim dies; aircraft hijacking; treason; kidnaping for ransom when the victim dies.

**Idaho.** First-degree murder; aggravated kidnaping.

**Illinois.** Murder accompanied by at least one of eight aggravating factors.

**Indiana.** Murder, with aggravating circumstances.

**Kentucky.** Aggravated murder; kidnaping when victim is killed.

**Louisiana.** First-degree murder; treason.

**Maryland.** First-degree murder, either premeditated or during the commission of a felony.

**Mississippi.** 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, non-consensual 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.

**Missouri.** First-degree murder (565.020 RSMO).

**Montana.** 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.

**Nebraska.** First-degree murder.

**Nevada.** First-degree murder.

**New Hampshire.** Contract murder; murder of a law enforcement officer; murder of a kidnaping victim; killing another after being sentenced to life imprisonment without parole.

**New Jersey.** Purposeful or knowing murder; contract murder.

**New Mexico.** First-degree murder; felony murder (30-2-1A).

**North Carolina.** First-degree murder.

**Ohio.** Assassination; contract murder; murder during escape; murder while in a correctional facility; murder after conviction for a prior 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 or in retaliation.

**Oklahoma.** 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.

**Oregon.** Aggravated murder.

**Pennsylvania.** First-degree murder.

**South Carolina.** Murder with statutory aggravating circumstances.

**South Dakota.** First-degree murder; kidnaping with gross permanent physical injury inflicted on the victim; felony murder.

**Tennessee.** First-degree murder.

**Texas.** 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.

**Utah.** First-degree murder; aggravated assault by prisoners involving serious bodily injury.

**Vermont.** Murder of a police officer or correctional officer; kidnaping for ransom.

**Virginia.** 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.

**Washington.** Aggravated first-degree premeditated murder.

**Wyoming.** First-degree murder including felony murder.

**Method of execution**

At yearend 1988 lethal injection (20 States) and electrocution (14 States) were the most common methods of execution authorized (table 2). Six States authorized lethal gas; two States, hanging; and two States, a firing squad. Seven States authorized more than one method — lethal injection and an alternative method — generally at the election of the condemned prisoner or based on 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 1988, 33 provided for an automatic review of all death sentences. Arkansas, Ohio, Utah, and Vermont had no specific provisions for automatic review. The Federal death penalty statute, enacted in 1988, does not provide for automatic review after a sentence of death is imposed. While most of the 33 States authorized an automatic review of both the conviction and sentence, Idaho and Indiana require review of the sentence only. Typically, the review is undertaken regardless of the defendant's wishes and is conducted by the State's highest appellate 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 13 States at the end of 1988 did not 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 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. Ten States and the Federal death penalty statute specify a minimum age of 18; the remaining States have set various ages between 13 and 17.

**Table 2. Method of execution, by State, 1988<sup>a</sup>**

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

Note: Federal executions are to be carried out according to the method of the State in which performed.

<sup>a</sup>Lethal injection authorized effective 7/1/88.

<sup>b</sup>Authorizes two methods of execution.

<sup>c</sup>Mississippi authorizes lethal injection for those convicted after 7/1/84; execution of those convicted prior to that date is to be carried out with lethal gas.

<sup>d</sup>Lethal injection authorized effective 7/29/88.

**Table 3. Minimum age authorized for capital punishment, yearend 1988**

<u>Age less than 18</u>	<u>Age 18</u>	<u>None specified</u>
Arkansas (15)	California	Alabama
Georgia (17)	Colorado	Arizona
Indiana (16)	Connecticut	Delaware
Kentucky (16)	Illinois	Florida
Louisiana <sup>a</sup>	Maryland	Idaho
Mississippi (13)	Nebraska	Montana <sup>d</sup>
Missouri (14)	New Jersey	New Mexico
Nevada (16)	Ohio	Oklahoma <sup>e</sup>
New Hampshire (17)	Oregon	Pennsylvania
North Carolina <sup>b</sup>	Tennessee	South Carolina
South Dakota <sup>a</sup>	Federal	Vermont
Texas (17)		Washington
Utah (14)		Wyoming
Virginia (15)		

Note: Ages indicated by state attorney general's offices in parentheses.

<sup>a</sup>Interpretation of attorney general's office based on La. R.S. 13:1571.1.

<sup>b</sup>Age required is 17 unless the murderer was incarcerated for murder when a subsequent murder occurred; then the age may be 14 years.

<sup>c</sup>10 years old but only after a transfer hearing to try a juvenile as an adult.

<sup>d</sup>Youth as young as 12 may be tried as adults.

<sup>e</sup>Statute partially struck by the U.S. Supreme Court on 6/29/88 that held that the application of the death penalty statute to a 15-year-old defendant violated the 8th amendment prohibition against cruel and unusual punishment.

**Table 4. Prisoners under sentence of death, by region and State, yearend 1987 and 1988**

Region and State	Prisoners under sentence 12/31/87	Changes during 1988			Prisoners under sentence 12/31/88
		Received under sentence	Removed from death row (excluding executions) <sup>a</sup>	Executed	
<b>U.S. total<sup>b</sup></b>	1,967	296	128	11	2,124
<b>Federal State</b>	0	0	0	0	0
	1,967	296	128	11	2,124
<b>Northeast</b>	110	22	12	0	120
Connecticut	1	0	0	0	1
New Hampshire	0	0	0	0	0
New Jersey	28	1	8	0	21
Pennsylvania	81	21	4	0	98
Vermont	0	0	0	0	0
<b>Midwest</b>	297	51	10	0	338
Illinois	109	13	4	0	118
Indiana	44	8	1	0	51
Missouri	52	17	1	0	63
Nebraska	13	1	1	0	13
Ohio	79	12	3	0	88
South Dakota	0	0	0	0	0
<b>South</b>	1,203	153	94	10	1,252
Alabama	89	13	5	0	97
Arkansas	26	3	2	0	27
Delaware	6	1	0	0	7
Florida	283	42	28	2	295
Georgia	102	7	17	1	91
Kentucky	32	2	2	0	32
Louisiana	44	1	2	3	40
Maryland	16	1	3	0	14
Mississippi	50	3	5	0	48
North Carolina	74	17	11	0	80
Oklahoma	85	15	8	0	92
South Carolina	39	4	7	0	36
Tennessee	64	7	1	3	70
Texas	255	34	2	3	284
Virginia	38	3	1	1	39
<b>West</b>	357	70	12	1	414
Arizona	72	13	3	0	82
California	199	32	2	0	229
Colorado	4	0	1	0	3
Idaho	13	3	1	0	15
Montana	6	2	1	0	7
Nevada	39	7	2	0	44
New Mexico	2	0	0	0	2
Oregon	5	11	1	0	15
Utah	7	2	0	1	8
Washington	8	0	1	0	7
Wyoming	2	0	0	0	2

Note: States not listed and the District of Columbia did not have the death penalty as of 12/31/87. Some of the figures shown for yearend 1987 are revised from those shown in *Capital Punishment 1987*, NCJ-111839. The revised figures include 18 inmates who either were reported late to the National Prisoner Statistics program or were not in the custody of State correctional authorities on 12/31/87 (8 in Florida, 2 each in Louisiana, Pennsylvania, and Tennessee, and 1 each in Arkansas, Colorado, Georgia, Illinois, Nevada, and Ohio) and exclude 35 inmates who were relieved of the death sentence on or before 12/31/87

(15 in Georgia, 6 in South Carolina, 3 in Arkansas, 2 each in North Carolina and Ohio, and 1 each in Alabama, Arizona, California, Maryland, Oklahoma, Pennsylvania, and Texas).

<sup>a</sup>Includes 5 deaths that were suicides (2 in California, and 1 each in Alabama, North Carolina, and Washington) and 7 deaths due to natural causes (1 each in Arizona, Mississippi, Nebraska, North Carolina, Ohio, Pennsylvania, and Washington).

<sup>b</sup>Excludes 3 males held under Armed Forces jurisdiction with a military death sentence for murder.

**Prisoners under sentence of death at yearend 1988**

A total of 34 States reported 2,124 prisoners under sentence of death on December 31, 1988, an increase of 157 or 8% over the count at the end of 1987 (table 4). States with the largest number of prisoners under sentence of death were Florida (295), Texas (284), California (229), Illinois (118), and Pennsylvania (98).

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 2,124 persons under sentence of death, 1,252 (58.9%) were in Southern States, 414 (19.5%) were in Western States, 338 (15.9%) were in States in the Midwest, and 120 (5.6%) were confined in the three Northeastern States of Connecticut, New Jersey, and Pennsylvania.

During the year, the largest percentage increase in the number of prisoners under sentence of death occurred in Western States (16.0%), followed by an increase of 13.8% in the Midwest, 9.1% in the Northeast, and a 4.1% increase over 1987 in the South. Eight States reported a decline in the number of prisoners at the end of 1988, compared to a year earlier.

Nearly 99.0% (2,101) of those under a sentence of death were males, and the majority, 58.3% (1,238), were white (table 5). Blacks constituted 40.2% of those under sentence of death, and another 1.6% were American Indians or Asian Americans.

**Table 5. Demographic profile of prisoners under sentence of death, 1988**

	Yearend 1988	1988 admissions	1988 removals
<b>Total number under sentence of death</b>	2,124	296	139
<b>Sex</b>			
Male	98.9%	98.3%	97.8%
Female	1.1	1.7	2.2
<b>Race</b>			
White	58.3%	66.2%	61.9%
Black	40.2	30.7	36.7
Other <sup>a</sup>	1.6	3.0	1.4
<b>Ethnicity</b>			
Hispanic	6.7%	10.1%	2.9%
Non-Hispanic	93.3	89.9	97.1
<b>Age<sup>b</sup></b>			
Less than 20 years	.5%	3.0%	0%
20-24	9.2	20.3	13.7
25-29	24.4	24.3	17.3
30-34	25.0	20.9	23.7
35-39	17.0	11.5	19.4
40-54	21.8	17.2	23.7
55+	2.2	2.7	2.2
Median age	32.6 years	30.5 years	33.3 years
<b>Education</b>			
7th grade or less	9.5%	6.4%	8.8%
8th	9.7	8.4	14.4
9th-11th	36.6	35.3	40.0
12th	34.7	41.0	28.0
Any college	9.5	8.8	8.8
Median education	10.7 years	11.0 years	10.4 years
<b>Marital status</b>			
Married	29.7%	26.8%	31.5%
Divorced/separated	23.3	27.3	18.5
Widowed	2.1	3.5	4.6
Never married	44.9	42.3	45.4

Note: Percentage and median calculations are based on those cases for which data were reported. Education data were not reported for 231 prisoners at yearend 1988, 47 prisoners admitted in 1988, and 14 prisoners removed in 1988. Data on marital status were not reported for 123 prisoners at yearend 1988, 36 prisoners admitted in 1988, and 9 prisoners removed in 1988.

<sup>a</sup>Consists of 21 American Indians and 12 Asians present at the end of 1988, 4 American Indians and 5 Asians admitted during the year, and 2 Asians removed during 1988.

<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.

The race and sex of those under sentence of death at yearend 1988 were as follows:

	White	Black	Other
Male	1,223	845	33
Female	15	8	0

The States reported a total of 143 Hispanics under a death sentence, 6.7% of the total. The largest numbers of Hispanics were held in Texas (40), California (29), Florida (24), and Arizona (14). Seventeen of the thirty-four States with prisoners under sentence of death reported Hispanic prisoners among them.

The median age of those under sentence of death was nearly 33 years. About .5% were under age 20, and 2.0% were 55 or older. The youngest offender under sentence of death was 17 years old (born May 1971); the oldest was 77 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. Nearly 45% of those under sentence of death had never been married.



The 23 women under sentence of death at yearend 1988 were held in 12 States; Florida and Alabama, each with 4 female inmates, held the largest number (table 6). Since 1977, one woman has been executed.

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

During 1988, 29 State prison systems reported receiving prisoners under sentence of death. Florida reported the largest number (42), followed by Texas (34), California (32), and Pennsylvania (21).

Of the 296 prisoners received under sentence of death:

- All were convicted of murder;
- 193 were white males, 89 were black males, 4 were American Indian males, 5 were Asian males, 3 were white females, and 2 were black females; and
- 30 were Hispanics.

Twenty-four States reported a total of 116 persons whose sentences of death were vacated or commuted. Florida (28), Georgia (17), North Carolina (9), and New Jersey and Oklahoma (8 each) reported the largest numbers of such exits.

Of the 116 persons whose death sentences were vacated or commuted during 1988:

- 60 had their sentences vacated but convictions upheld (including 7 in New Jersey by the Supreme Court of New Jersey);
- 48 had both their convictions and sentences vacated;
- 3 had their death sentences removed as a result of courts partially striking statutes under which they were convicted or sentenced;
- 4 had their sentences commuted; and
- 1 inmate was removed from Illinois and transferred to Ohio under another death sentence.

**Table 6. Number of women on death row, by State, yearend 1980-88**

State	1980	1981	1982	1983	1984	1985	1986	1987	1988
U.S. total	9	11	14	13	17	17	18	21	23
Florida	1				1	2	2	5	4
Georgia	3	4	4	3	2	2	1	1	1
Kentucky	1	1						1	1
North Carolina	1	1	1	1				1	1
Oklahoma	1	1	2	2	1	1	1	1	1
Texas	2	2	2			2	2	2	3
Alabama		1	1	2	2	2	2	2	4
Maryland		1	2	1	2	1	1		
Mississippi			1	1	1	1	2	1	
Nevada			1	1	2	2	1	1	1
Ohio				2	2	2	1	1	2
Arkansas					1				
Idaho					1				
New Jersey					1		1	1	
Indiana						1	3	3	3
Tennessee							1	1	1
Missouri									1

At yearend, 62 of the 116 were serving reduced sentences (60 to life imprisonment and 2 to sentences of more than 20 years), 27 were awaiting new trials, 17 were awaiting resentencing, 1 was found not guilty after retrial, 1 had further prosecution dropped, 1 was awaiting resolution of his case by the State supreme court, 2 were released from prison as a result of commutation, 1 was transferred to another State on a detainer, and 1 was transferred to another State with a second death sentence. The status of three cases was undetermined at the end of the year.

In addition, 12 persons died while under sentence of death in 1988. Five of these deaths were suicides — one each in Alabama, North Carolina, and Washington and two in California. Seven additional

deaths were attributed to natural causes (one each in Arizona, Mississippi, Nebraska, North Carolina, Ohio, Pennsylvania, and Washington).

From 1977, the year after the Supreme Court reinstated the death penalty, through 1988, there were 3,057 admissions to State prisons under a sentence of death; 1,249 removals from a death sentence occurred over the same period as a result of appellate court actions, commutations, or death while under sentence; and 104 persons were executed. Among death sentence admissions, 1,793 (58.7%) were white, 1,218 (39.8%) were black, and 46 (1.5%) were of other races. Among those removed from a death sentence other than by execution, 717 (57.4%) were white, 519 (41.6%) were black, and 13 (1.0%) were of other races. Of the 104 executed, 63 (60.6%) were white and 41 (39.4%) were black.

**Criminal history of inmates under sentence of death in 1988**

Among those under sentence of death at yearend 1988, 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, 9.3% had a previous conviction for that crime.

Among those for whom legal status at the time of the capital offense was reported, 41% had 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, more than 1 in 3 (34.5%) 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 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, 3,963 executions have been conducted under civil authority (table 8).<sup>2</sup> Since the death penalty was reinstated by the Supreme Court in 1976, the States have executed 104 persons:

1977 — 1	1984 — 21
1979 — 2	1985 — 18
1981 — 1	1986 — 18
1982 — 2	1987 — 25
1983 — 5	1988 — 11

A total of 12 States have carried out executions since 1977. During the period, 62 white males, 41 black males, and 1 white female have been executed. The largest number of executions occurred in Texas (29), Florida (19), Louisiana (18), and Georgia (13). Executions in 1988 were carried out in Louisiana (3), Texas (3), Florida (2), and one each in Georgia, Utah, and Virginia. Those executed in 1988 were all male, 6 whites and 5 blacks.

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

**Table 8. Number of persons executed, by jurisdiction, in rank order, 1930-88**

State	Number executed	
	Since 1930	Since 1977
U.S. total	3,963	104
Georgia	379	13
New York	329	
Texas	326	29
California	292	
North Carolina	266	3
Florida	189	19
Ohio	172	
South Carolina	164	2
Mississippi	157	3
Pennsylvania	152	
Louisiana	151	18
Alabama	138	3
Arkansas	118	
Kentucky	103	
Virginia	99	7
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	
Utah	16	3
Kansas	15	
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	

**Table 7. Criminal history profile of prisoners under sentence of death, by race, 1988**

	Under sentence of death					
	Number			Percent <sup>a</sup>		
	All races <sup>b</sup>	White	Black	All races <sup>b</sup>	White	Black
<b>Prior felony conviction history</b>						
Yes	1,366	773	578	68.3%	66.4%	72.0%
No	633	391	225	31.7	33.6	28.0
Not reported	125	74	50			
<b>Prior homicide conviction history</b>						
Yes	174	92	78	9.3%	8.5%	10.3%
No	1,688	985	677	90.7	91.5	89.7
Not reported	262	161	98			
<b>Legal status at time of capital offense</b>						
Charges pending	119	72	42	6.4%	6.7%	5.7%
Probation	140	90	49	7.6	8.4	6.6
Parole	381	188	190	20.7	17.5	25.8
Prison escapee	37	25	11	2.0	2.3	1.5
Prison inmate	56	34	22	3.0	3.2	3.0
Other status <sup>c</sup>	24	14	9	1.3	1.3	1.2
None	1,088	654	414	59.0	60.7	56.2
Not reported	279	161	116			
<b>Median time elapsed since imposition of death sentence</b>	45 mos.	43 mos.	49 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 12 persons on furlough or work release, 4

persons on mandatory conditional release, 3 persons while out on bail, 2 persons residing in halfway houses, 1 person while confined in a local jail, 1 person while under house arrest, and 1 for whom charges were pending from the U.S. Army.

Since 1977 a total of 3,477 offenders have been under a death sentence for varying periods of time (table 9). There were 104 executions (3.0% of those at risk) and 1,249 removals (35.9% of those at risk) during this period. A slightly higher percentage of whites than blacks were executed (3.1% versus 2.9%), and blacks had a slightly higher removal rate by other than execution (36.7% for blacks versus 35.5% for whites).

For those executed since 1977, the average time between sentence imposition and execution was 6 years and 5 months (table 10). For the 11 prisoners executed during 1988, the average time spent under a death sentence was 6 years and 8 months, about 6 months less than for those executed in 1987. Black prisoners executed in 1988 had spent an average of 7 years and 5 months awaiting execution; whites, 5 years and 11 months.

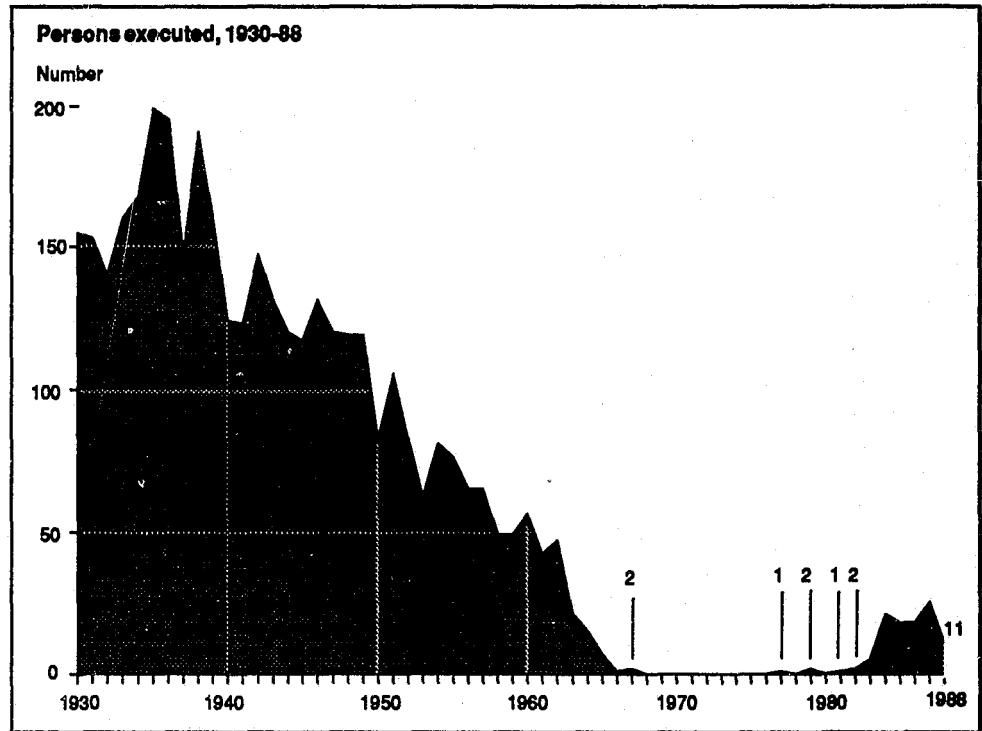


Figure 3

**Table 9. Percentage of those under sentence of death who were executed or received other dispositions, by race, 1977-88**

Race	Total under sentence of death 1977-88 <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>	3,477	104	3.0%	1,249	35.9%
White	2,018	63	3.1	717	35.5
Black	1,413	41	2.9	519	36.7

<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 1988 (3,057).

<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 1,249 re-

movals, 29 resulted from death due to natural causes, 26 by suicide, 2 killed during escape attempts, 6 murdered by other inmates, and 1 by death resulting from drug overdose.

<sup>c</sup>Includes, whites, blacks, and persons classified as members of other races.

**Table 10. Time between imposition of death sentence and execution, by race, 1977-88**

Year of execution	Number executed			Average elapsed time from sentence to execution for:		
	All races	White	Black	All races	White	Black
Total	104	63	41	77 months	71 months	87 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
1988	11	6	5	80	72	89

Note: For these executions, average time was calculated from the original sentencing dates. The range

for elapsed time for the 104 executions was 3 months to 170 months.

**Appendix I. Current status of inmates under sentence of death, 1979-88**

Since 1973 a total of 3,679 individuals have been sentenced to death (appendix table 1).<sup>3</sup> The table shows the status of those received in each year with respect to their death sentence, as of December 31, 1988. For example, of the 188 persons whose sentence to death occurred in 1978, 18 have been executed, 3 have died while in confinement, 21 have been relieved of the death sentence because courts struck down in whole or in part the statutes under which they were sentenced, 35 have had their convictions overturned on appeal, 53 have had their sentence overturned on appeal, 8 have had their sentences commuted, and 50 were still under a death sentence at yearend 1988. Of the 2,124 persons under sentence of death on December 31, 1988, 190 or 8.9% were sentenced prior to 1980.

<sup>3</sup>Since 1973, 114 individuals have been resentenced to death after an original death sentence was vacated. Appendix tables 1 and 2 utilize the most recent date on which a death sentence was imposed.

Appendix table 2 shows the distribution of the 2,124 persons under sentence of death at yearend 1988 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 1988. By contrast, Colorado, Connecticut, and New Mexico had no inmates sentenced prior to 1987, and none of these three States added new inmates in 1988.

**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, three death penalty statutes have been enacted by the Congress:

- (A) any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A) or section 960(b)(1) who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death;
- and (B) any person, during the commission

of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this subchapter or subchapter II of this chapter who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death (21 U.S.C. § 848(e)).

- 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)).

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

**Appendix table 1. Reasons for removal from death row and number of prisoners on death row at yearend 1988, by year of sentencing**

Year of sentencing	Number sentenced to death	Number of prisoners removed from death row						Under death sentence on December 31, 1988	
		Executed	Died	Appeal courts overturned:			Sentence commuted		Other or unknown reasons
				Death penalty statute	Conviction	Sentence			
1973	42	2	0	14	9	8	9	0	0
1974	151	8	4	65	15	26	21	0	12
1975	301	5	3	171	22	63	21	2	14
1976	234	8	5	136	16	35	15	0	19
1977	141	11	1	40	26	31	7	0	25
1978	188	18	3	21	35	53	8	0	50
1979	158	5	7	2	25	44	5	0	70
1980	186	12	9	3	29	39	3	0	91
1981	239	12	7	0	31	47	3	0	139
1982	277	8	9	0	20	46	4	0	190
1983	262	7	5	1	11	37	2	3	196
1984	294	6	6	1	22	38	4	4	213
1985	291	1	2	1	14	30	1	1	241
1986	315	0	5	0	12	18	2	0	278
1987	304	1	1	1	3	5	0	0	293
1988	296	0	3	0	0	0	0	0	293
<b>Total, 1973-88</b>	<b>3,679</b>	<b>104</b>	<b>70</b>	<b>456</b>	<b>290</b>	<b>520</b>	<b>105</b>	<b>10</b>	<b>2,124</b>

Note: Of those sentenced to death between 1973 and 1988, 114 were removed and subsequently resentenced to death. For these persons, their latest sentencing date was used.

**Appendix table 2. Prisoners under sentence of death on December 31, 1988, by State and year of their sentence**

State	Year of death sentence															Under sentence of death 12/31/88
	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	
<b>Total sentenced and remaining on death row 12/31/88</b>	12	14	19	25	50	70	91	139	190	196	213	241	278	293	293	2,124
Florida	5	7	8	6	15	16	12	15	23	21	28	23	30	40	42	295
Georgia	4	1	3	5	8	3	4	7	7	6	9	6	10	13	7	91
Texas	2	2	4	7	10	7	15	20	22	29	19	37	40	36	34	284
Utah	1									1		3		1	2	8
Montana		3								1				1	2	7
Nebraska		1	1		4	1	1	1			2		1		1	13
Alabama			1		1	1	2	8	18	13	10	10	8	13	12	97
Arizona			1	1	1	9	9	4	9	6	5	7	5	12	13	82
Mississippi			1	2			3	7	6	2	1	3	8	12	3	48
Arkansas				2		1	1	7	3	1		3	3	3	3	27
Nevada						3	1	3	4	5	6	5	4	5	7	44
Oklahoma				1	2	2	2	3	4	8	14	10	16	15	15	82
California					2	10	5	21	34	32	27	16	24	27	31	229
Indiana					1	1	3	4	2	6	6	10	6	4	8	51
Kentucky					1		1	2	5	5	2	4	7	3	2	32
Louisiana					1		2		3	3	7	10	4	9	1	40
Tennessee					5	1	4	5	6	5	7	11	9	10	7	70
Virginia				1		3	1	1	3	2	8	1	10	6	3	39
Illinois						4	12	10	6	13	11	14	25	10	13	118
Maryland						1		2	5		4		1		1	14
Missouri						2	3	6	6	2	6	9	9	8	17	68
North Carolina						2	4	4	3	6	6	16	7	16	16	80
South Carolina						3	3	3	1	5	4	4	9		4	36
Delaware							2		2				1	1	1	7
Pennsylvania							1	5	7	10	9	13	17	15	21	98
Idaho								1	4		5	1	1		3	15
Ohio									3	12	16	18	15	12	12	88
Washington									2	2			1	1		7
Wyoming									2							2
New Jersey											1	6	6	7	1	21
Oregon													1	3	11	15
Colorado														3		3
Connecticut														1		1
New Mexico														2		2

Note: See note on appendix table 1.

At the end of 1988, three 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 United States 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 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.

**1988 U.S. Supreme Court decisions cited**

*Lowenfield v. Phelps, Secretary, Louisiana Department of Corrections, et al.*, 108 S. Ct. 546 (1988)

*Satterwhite v. Texas*, 108 S. Ct. 1792 (1988)

*Maynard, Warden, et al. v. Cartwright*, 108 S. Ct. 1853 (1988)

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*Johnson v. Mississippi*, 108 S. Ct. 1981 (1988)

*Franklin v. Lynaugh, Director, Texas Department of Corrections*, 108 S. Ct. 2320 (1988)

*Ross v. Oklahoma*, 108 S. Ct. 2273 (1988)

*Thompson v. Oklahoma*, 108 S. Ct. 2687 (1988)

**State notes**

**Arkansas** — Act 267 of 1987 — Amended Section 5-10-101 to recodify the statute defining capital murder by removing arson from subsection (a)(1) under the felony murder rule to a new subsection (a)(2). Effective date 1/1/88.

**Colorado** — Amended Sections 16-11-401, 16-11-402, and 16-11-103 to change the method of execution from lethal gas to lethal injection and to establish the procedures for carrying out executions by lethal injection. Effective date 7/1/88.

**Louisiana** — Acts 1988, Number 779, amends and reenacts Code of Criminal Procedure Articles 598, 905.3, 905.6, 905.7, 905.8, and R.S. 14:30 (c). Revision to Article 905.3 on sentences of death changes language from the jury "recommends" to the jury "determines" that the sentence of death should be imposed. Revisions to Articles 905.6 and 905.7 similarly substitute the word "determine" for "recommend" with respect to jury sentences. Revisions to Article 905.8 require the court to sentence the defendant in accordance with the "determination of the jury" and provide for sentences to life imprisonment without parole for first-degree murder if the jury cannot unanimously agree to impose a death sentence. Effective date 7/18/88.

**Virginia** — Revised §18.2-31(e) with a wording change in the definition of capital murder from "a person during" to "any person" in the description of rape-murder. Effective date 7/1/88.

Bureau of Justice Statistics Bulletins are written principally by BJS staff. This bulletin was written by Lawrence A. Greenfeld, corrections unit chief. Tom Hester edited this bulletin. Marilyn Marbrook, publications unit chief, administered report production, assisted by Betty Sherman, Yvonne Boston, 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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The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: Bureau of Justice Statistics, National Institute of Justice, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.

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