

Managing Death-sentenced Inmates

A Survey of Practices

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American Correctional Association

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U.S. Department of Justice
National Institute of Justice

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American Correctional Association

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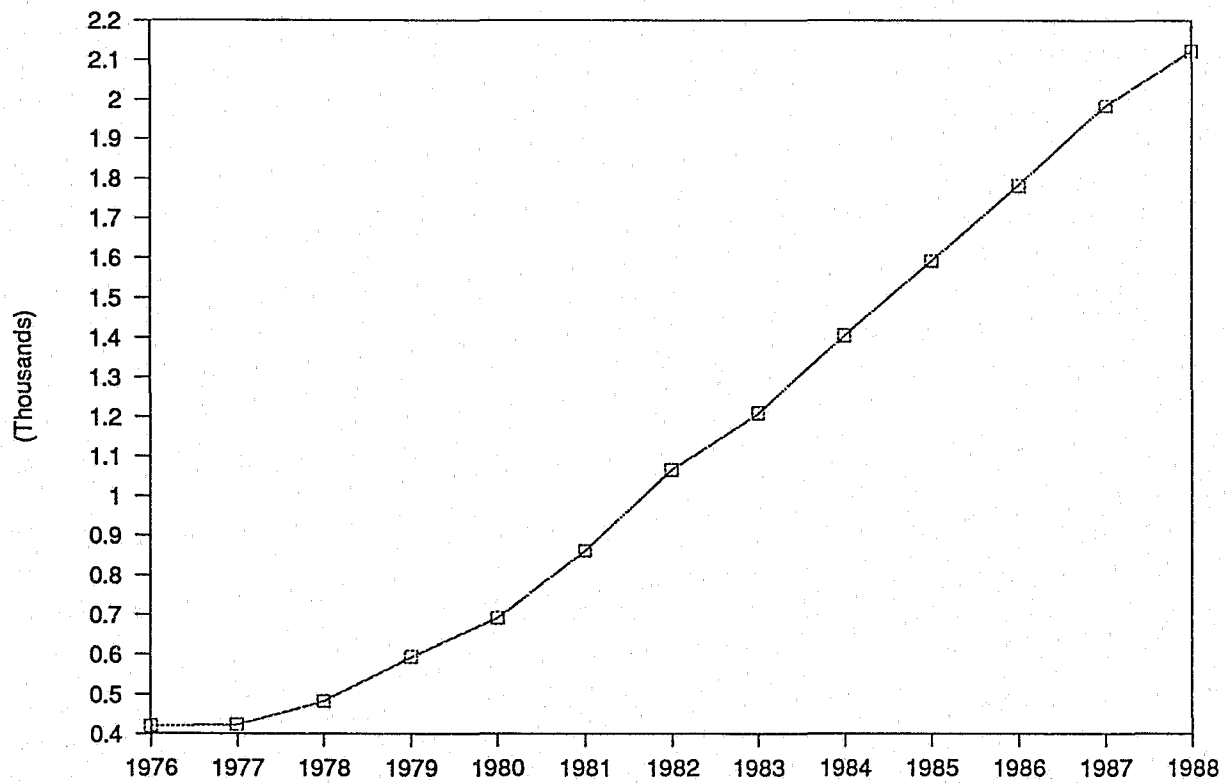
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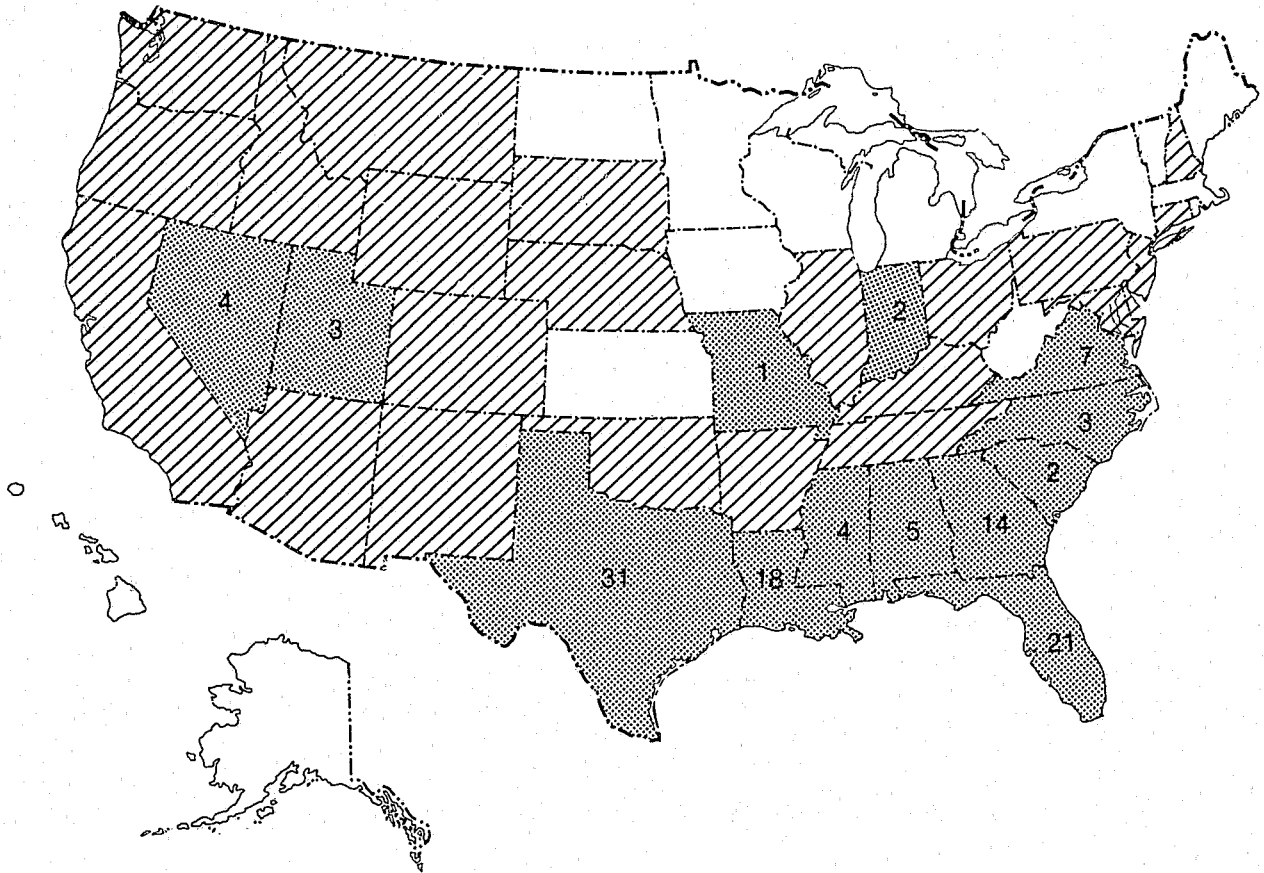
Chart 1
Persons Under Sentence of Death, 1976-1988



Source: BJS (1989)

Chart 2

Status of Use of Death Penalty as of August 1, 1989



Numbers in states indicate the total number of executions from 1977 to August 1, 1989

No
death
penalty



Includes Washington, D.C.

Death penalty in force: 36 states
Executions since 1977

No

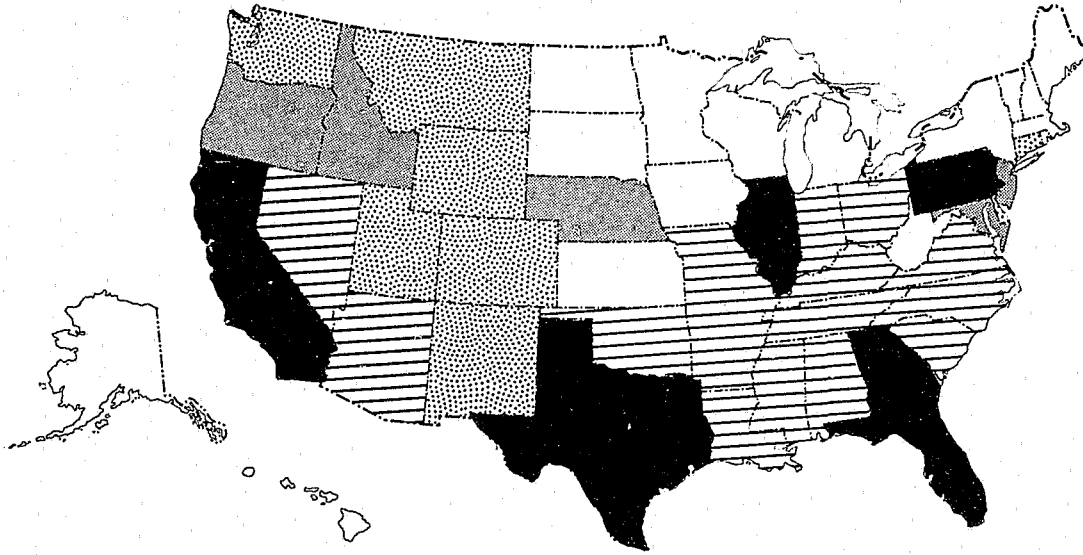


Yes



Chart 3

Persons Under Sentence of Death by Jurisdiction as of March 1, 1989



Source: NAACP/LDF

None

- Alaska
- D.C.
- Hawaii
- Iowa
- Kansas
- Maine
- Massachusetts
- Michigan
- Minnesota
- New Hampshire
- New York
- North Dakota
- Rhode Island
- South Dakota
- Vermont
- West Virginia
- Wisconsin
- Federal B.O.P.

1-9

Connecticut	1
New Mexico	2
Wyoming	2
Colorado	3
U.S. Military	5
Utah	6
Delaware	7
Montana	7
Washington	7

10-29

Nebraska	13
Oregon	15
Idaho	15
Maryland	18
New Jersey	25

30-99

Kentucky	30
Arkansas	30
Louisiana	39
Virginia	40
South Carolina	42
Mississippi	46
Nevada	47
Indiana	50
Tennessee	70
Missouri	71
North Carolina	82
Arizona	84
Ohio	88
Alabama	94
Oklahoma	98

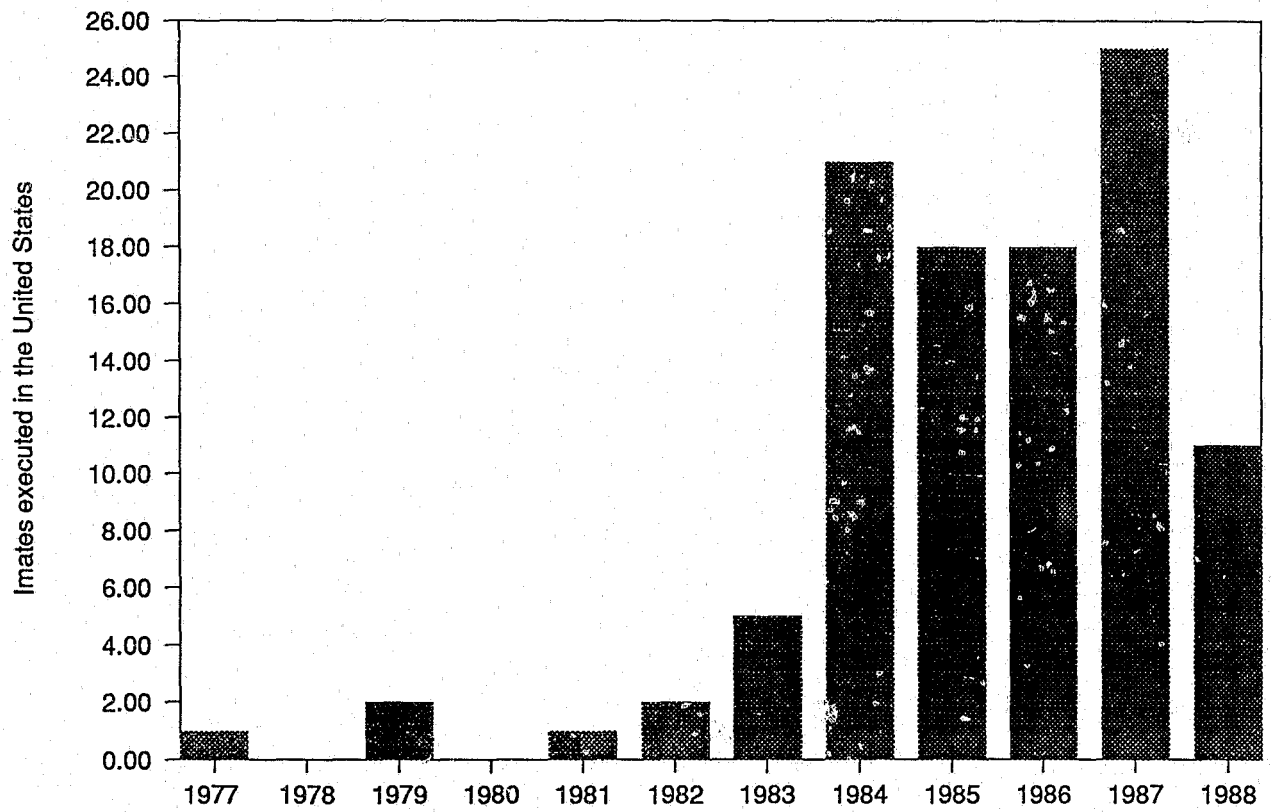
100 or more

Georgia	107
Pennsylvania	115
Illinois	120
California	241
Texas	287
Florida	290

• States Without Death Penalty Statutes: 14

Total 2,186

Chart 4
Number of Persons Executed, 1977-1988



Source: NAACP/LDF

Chapter 1: Introduction

The history of capital punishment in America has long been characterized by controversy. The death penalty is the most severe punishment that can be imposed under our system of justice; consequently, it continues to generate heated debate among jurists, legislators, and the general public.

Since the birth of our nation in 1776, several thousand people have been convicted of capital crimes and executed. As the nation matured, the imposition of the death penalty began to change. For instance, from the Revolution through the late 1800s, nearly all executions were carried out in public. The twentieth century saw a change from public hangings to state-sanctioned executions; however, public executions continued on an intermittent basis into the 1930s. From the 1930s to the present, executions have been conducted in state or federal prisons in a ritualized process with minimal involvement on the part of the public.

A second important change in the application of the death penalty is the period of time an inmate is incarcerated before execution. During the early part of America's history, the appellate process was limited. Consequently, the time spent in death-sentenced status was short. "Death rows" were limited to one or two people briefly held in a local jail before execution. As time passed, more and varied avenues of legal challenge to the death sentence caused condemned inmates to await execution for longer periods of time. Today, death-sentenced inmates spend, on average, more than seven years in prison before being executed (BJS 1989). The increasing length of time spent on death row also means more inmates awaiting execution. The existence of such large numbers of inmates on death row has no precedent in this nation's history.

The highest recorded number of executions in United States history since 1930, when official annual counts began, occurred in 1935, with 199 executions being carried out. In the following decades, the number of inmates under sentence of death continued to grow, and the number of executions declined, partly in response to increased activity by death penalty opponents. By 1960, there were approximately 200 inmates with death sentences in our nation's prisons (BJS 1989). These inmates were usually integrated into the prisons' general populations until 24 to 72 hours before their scheduled execution. Consequently, the management of a separate death row unit often amounted to the supervision of a final holding cell, the last meal, and the execution itself.

By the 1930s, a series of United States Supreme Court decisions broadened the legal protections extended to death-sentenced inmates. The Supreme Court had become increasingly sympathetic toward the rights of capital defendants and ruled accordingly. A number of major decisions outlined the constitutionally required legal protections for inmates under sentence of death. In *Powell v. Alabama* (1932), the high court held that capital defendants must be provided counsel. In subsequent decisions, the court ruled against racial discrimination and improper jury selection (*Patent v. Mississippi*, 1947) and provided protection against coerced confessions (*Fikes v. Alabama*, 1957). It also ruled that jurors who expressed moral or religious objections to capital punishment could not be excluded from capital juries (*Witherspoon v. Illinois*, 1968).

In 1972, the Supreme Court, by a 5-4 vote, issued a landmark decision. In *Furman v. Georgia*, the court ruled that capital punishment as practiced in the United States violated the Eighth and Fourteenth Amendments of the Constitution. Specifically, the high court ruled that the death penalty had been used in an arbitrary, capricious manner, thereby violating the constitutional guarantees against cruel and unusual punishment. This decision invalidated all death penalty statutes in America. Many states moved quickly to revise their capital punishment statutes to satisfy the objections raised by the court. At that time, there were more than 600 inmates under sentence of death, all of whom had their death sentences reduced to imprisonment (BJS 1989).

In 1976, the court reversed itself, in part, with *Gregg v. Georgia*, which held that states may indeed execute murderers providing certain procedural safeguards are met. For instance, the court struck down mandatory death sentence statutes and the imposition of the death sentence for rape. In 1977, the moratorium on capital punishment ended with the execution of Gary Gilmore in Utah. Other states slowly began to conduct executions. From January 1977 through August 1, 1989, there have been 115 executions in 13 states.

Statistics on Death-sentenced Inmates

By July 1, 1989, the number of inmates under sentence of death had grown to 2,210 people in 34 states. This number of condemned inmates is the highest it has been since 1953, when the national count began. Chart 1 reflects the dramatic increase in the number of death-sentenced inmates, which has more than doubled since 1982—an increase of more than 100 percent in only seven years. During that same period, the overall prison population increased 61.4 percent (BJS 1989).

These death-sentenced inmates are being held by the United States military and 34 of the 36 states that have capital punishment statutes. (See Chart 2.) Two of these 36 states, New Hampshire and South Dakota, have capital punishment statutes but had no death sentences imposed as of July 1, 1989.

As of March 1, 1989, Florida, Texas, and California continued to have the highest numbers of inmates with death sentences, all with well over 200 each. (See Chart 3.) Texas ranks highest with 302 inmates under sentence of death. The state with the lowest number is Connecticut, which as of July 1, 1989, had only one inmate with a death sentence.

Despite the death row population explosion, the actual pace of executions is slow. In fact, only 13 of the 36 states with the death penalty have actually used it, and less than half of those (five) have executed more than five condemned inmates (NAACP/LDF). (See Chart 2.)

In 1976, the year of restoration, there were no executions. Between January 17, 1977, when Gary Gilmore was executed in Utah, and August 1, 1989, 114 men and 1 woman have been executed in 13 states. As shown in Chart 4, following the first execution in 1977, the number of executions surged to 21 in 1984, 18 in 1985, 18 in 1986, and 25 in 1987. Eleven executions were carried out in 1988. As of August 1, 1989, eleven executions had been carried out that year, a figure equaling the previous year's total. Of significance to today's correctional practitioner is the fact that 104 of these 115 executions—90 percent—have occurred during the last five-and-a-half years.

Ronald Tabak, a Wall Street attorney who has successfully defended a number of death-sentenced inmates in their appeals, states that

it is possible there will be a significant increase in the number of executions in the next several years . . . [but] even so, it is hard for me to believe that we will actually diminish the number of people on death row. Even if we execute 250 a year—one every weekday of the year—we still wouldn't diminish the death row population. We just wouldn't be adding to it.

A second trend concerning the population under sentence of death is the increasing length of time spent in condemned status. The majority of condemned inmates have been under sentence of

death for several years, and the postconviction appellate process will cause many to remain in that status for years to come.

Joel Berger of the NAACP Legal Defense Fund and Educational Fund states that many death-sentenced inmates will not only be on death row for many years, but will never be executed. One study cited by Berger estimates that in 1980, the overall reversal rate in capital cases was either 60 percent or 79 percent, depending on the method of calculation (Berger 1987). Both figures indicate a high reversal rate. The NAACP Legal Defense Fund records on the reversal rates in capital cases of several state courts of last resort indicate that those rates are often quite high. For example, 38 percent of the 206 appeals decided between 1974 and 1985 by the Texas Court of Criminal Appeals resulted in reversals. Other states in which reversal rates were high include Kentucky (50 percent), Arkansas (37 percent), Tennessee (32 percent), and Nebraska (31 percent) (NAACP/LDF).

In addition to reversals by state appellate court systems, Berger contends that many other death-sentenced inmates will eventually prevail on habeas corpus relief in either the Federal District Courts or Circuit Courts of Appeals. He indicates that of 160 capital federal habeas corpus appeals decided across the nation since 1978, 68 have been decided in favor of the condemned inmate, a success rate of 42.5 percent (Berger 1987). Thus, Berger's data support his contention that many death-sentenced inmates will not be executed and, due to the labyrinth of legal appeals, most will remain on death row for a long time.

For those executed since the death penalty was resumed in 1977, the average time between the imposition of the death sentence and their execution was six years and four months. For the 18 inmates executed in 1986, the average time spent on death row was over seven years. An inmate executed in Florida in March 1988 had been under sentence of death for more than 14 years. The trend of lengthening stays on death row will no doubt continue for the vast majority of condemned inmates. In 1976, the median waiting time was one year and one month. In 1985, the average time was five years and 11 months. For those executed in 1986, the average time spent awaiting execution was seven years and two months (BJS 1987).

Looking at those inmates under sentence of death at the time of the ACA/NIJ survey and comparing them to the list of death-sentenced inmates in April 1980, it was established that only 6 percent had been executed, and 40 percent had been removed from death row through means other than execution. In April 1980, 642 inmates were on death row. Of these, 284 were no longer on death row by 1986. Of the 642 death-sentenced inmates, only 40 had been executed by the end of 1986 (BJS 1987).

A third concern regarding the management of death-sentenced inmates is the increased likelihood that their sentences will be carried out. Both condemned inmates and correctional staff have become aware that executions are no longer just a possibility. In addition, correctional practitioners are concerned that the very fact that death sentences are being conducted will have an unknown effect on both inmates and staff.

Current Concerns

Regardless of the reasons for the steady increase in the number of death-sentenced offenders entering the prison system and the relatively small number of executions carried out over a span of 13 years, the situation is becoming intolerable for states with large numbers of condemned inmates. Today's correctional practitioners in two-thirds of the United States are facing the prospect that the number of people receiving the death sentence will continue to rise dramatically. Another reality for both inmates and correctional staff is the increasing likelihood that some of the death sentences imposed will be carried out. There is no doubt that the growing number of persons on death row and the length of time they spend there have created management concerns for correc-

tional administrators and line staff. This presents new and difficult policy questions for those states with the death penalty.

The need for comprehensive policies and procedures for the management of condemned inmates is evident. State departments of correction are responsible for confining condemned inmates until a final decision is reached regarding their sentence. Should all legal appeals be exhausted (or refused by the inmate) and an execution date set, corrections officials are responsible for carrying out the sentence. Should the inmate have his or her death sentence reduced to a term of imprisonment, corrections will continue to be responsible for the inmate's incarceration. The average time it takes to reach a final decision on a death sentence is well over seven years. And, all of those states with inmates awaiting execution that have not yet carried out a death sentence still have no dates set for their first execution. This means that policies and procedures for condemned inmates need to be developed from the standpoint of long-term correctional assignments. Staffing, security, confinement, and all other factors must be viewed in terms of inmates who will be under maximum custody supervision for close to a decade before a final sentence can be expected.

Such concerns raise new questions about specialized programs for these inmates, such as counseling, education, visitation, recreation, and work assignments. There appears to be a need to define the scope of the problem, identify and analyze the programs and services provided to inmates under sentence of death, and examine the attitudes of both inmates and the staff who supervise them.

The ACA/NIJ Study

Alarmed by the dilemmas created by the growing number of condemned inmates, the American Correctional Association (ACA) has, with the sponsorship of the National Institute of Justice (NIJ), conducted this study, which seeks to address only these management problems, not the political or moral implications of capital punishment. The major objectives of this study were to gather information concerning the current inmate population and current management policies and procedures; to identify the major issues facing correctional administrators in supervising the growing number of condemned inmates; and to present options for improved management.

There are a number of policy questions this study seeks to address. Is it necessary to confine all condemned inmates in one location within an institution? Should there be any contact between condemned inmates and the general inmate population? What staffing patterns and specialized training are needed for correctional personnel who supervise condemned inmates? What are the legal aspects and liability concerns of death row supervision? How much out-of-cell time should be allowed to condemned inmates?

These questions, among others, are examined by the study to help correctional administrators change their current policies or adopt new ones to facilitate the efficient operation of the condemned housing units within their institutions. This report has been prepared to help provide definitive information and guidance for correctional personnel and policy makers concerning effective strategies for managing death-sentenced inmates. This study does not address the legal, moral, or political arguments concerning the death penalty itself. The goal of this report is to facilitate improving the overall management of inmates who are sentenced to death and, specifically, to advance the knowledge and communication among the personnel who actually deal with them.

This project, funded by NIJ, encompassed a complete literature review; a nationwide survey soliciting objective and subjective information from correctional administrators, line staff who supervise death-sentenced inmates, and the inmates themselves; a comprehensive analysis of this information and resultant data by project staff and correctional practitioners; and the preparation of a final report on the findings for correctional administrators.

This project required the cooperation and assistance of hundreds of administrators, correctional officers, and condemned inmates who provided much-needed information as well as their personal thoughts and observations on this subject. All responses were guaranteed absolute confidentiality, and the few instances in which states or institutions are named relate to matters of public record or common knowledge.

Chapter 2: Project Methodology

The project staff approached the topic of management of inmates under sentence of death from several perspectives: first-hand experience with correctional management; a review of the literature of the field; discussions with practitioners; site visits to institutions with differing management styles; use of outside expertise in data analysis and the legal aspects of death-sentenced inmates; and an extensive review of the draft report by top correctional managers.

The project staff included correctional practitioners who had personal experience managing institutions that held death-sentenced inmates. These practitioners had been involved for several years in the American Correctional Association's efforts to develop and promulgate national correctional policies and standards for correctional practice based on the best available thinking in the field.

The goals set for the survey instruments were the collection of both objective and subjective data. The project staff wished to collect demographic data on inmates under sentence of death as well as objective data on the specific management practices in use throughout the United States. The project staff also sought to develop a comprehensive collection of state laws, departmental and institutional policies and procedures, and special reports relating to management of death-sentenced inmates.

In addition, the project staff were concerned with obtaining the thoughts and recommendations of those most closely associated with the subject at hand. The staff were well aware of the controversy surrounding death row. Therefore, emphasis was placed on eliciting the thoughts of administrators, staff, and inmates. What programs and services are most useful? What programs should be discontinued? What programs and services should be initiated? What policies should be changed? Answers to questions like these were solicited from the study's participants.

Four survey instruments were developed: (1) a form for the central office or department of corrections, to be filled out by each state that had a capital punishment statute; (2) a form to be completed by each warden of an institution that housed death-sentenced inmates; (3) a form to be completed by staff members who worked with these inmates; and (4) a form to be filled out by a sizeable random sample of the inmates themselves.

Survey Distribution

The survey instruments were developed with the National Institute of Justice and were field-tested in two institutions. On the basis of the field tests, the surveys were revised, and the DOC survey was mailed to directors of corrections in the 37 states with capital punishment statutes, accompanied by a cover letter explaining the nature of the project and requesting that the director appoint a contact person who would be responsible for distributing the remaining surveys. On the basis of the information received from these surveys, a packet of surveys for the warden, staff, and selected inmates in each participating institution was prepared and forwarded to the state

contact person. Each survey was accompanied by a return envelope and a cover sheet explaining the nature of the project and assuring the confidentiality of all responses.

The survey for the directors of corrections was sent to the 37 states that had a death penalty as of March 31, 1986. (See Table 2.1.) The survey requested information about the status of each state's death-sentenced population as of March 31, 1986, including inmate rosters and where each inmate was housed. The survey also requested copies of state policies and procedures for managing these inmates as well as information on lawsuits relating to the conditions of confinement for inmates under sentence of death. Finally, the survey requested information on executions since 1980.

Table 2.1
States with Death Penalty as of March 31, 1986

Alabama	Nevada
Arizona	New Hampshire
Arkansas	New Jersey
California	New Mexico
Colorado	North Carolina
Connecticut	Ohio
Delaware	Oklahoma
Florida	Oregon
Georgia	Pennsylvania
Idaho	South Carolina
Illinois	South Dakota
Indiana	Tennessee
Kentucky	Texas
Louisiana	Utah
Maryland	Vermont
Mississippi	Virginia
Missouri	Washington
Montana	Wyoming
Nebraska	

All 37 states responded. The DOC survey confirmed that four of the 37 states that had a death penalty at that time (Connecticut, New Hampshire, South Dakota, and Vermont) had no inmates under sentence of death. The survey identified 1,685 inmates (1,665 men and 20 women) who had death sentences and who were housed in 50 different state institutions throughout the United States. (See Table 2.2.)

Illinois and Pennsylvania were the only two states reporting significant numbers of male inmates in more than one institution. Both had death rows in two institutions. Florida has since moved death-sentenced inmates to a second institution. Mississippi and New Jersey reported having males and females in different sections of the same institution.

Three of these institutions were specialized correctional mental health facilities housing only one inmate under sentence of death, with the rest of the state's death-sentenced population housed in regular institutions. Because of their specialized nature, these three facilities were eliminated from the institutional survey field. In addition, four states requested that they be eliminated from the institutional survey field because of lawsuits or general controversy surrounding their death-sentenced populations.

The three additional types of surveys, one for the chief executive officers (wardens), one for staff members, and one for inmates, were sent to the 40 institutions remaining in the survey field

Table 2.2
States with Capital Punishment Statutes and Institutions

STATE/Institution	Inmates Under Sentence of Death as of March 31, 1986		
	Male	Female	Total
ALABAMA			
Holman Prison	83	0	83
Julia Tutwiler Prison for Women	0	2	2
Kilby Corrections Facility	1	0	1
ARIZONA			
Arizona State Prison Complex, Florence	61	0	61
ARKANSAS			
Cummins Unit	27	0	27
CALIFORNIA			
California State Prison, San Quentin	155	0	155
COLORADO			
Centennial Correctional Facility	1	0	1
CONNECTICUT			
	0	0	0
DELAWARE			
Delaware Correctional Center	3	0	3
Sussex Correctional Institution	2	0	2
FLORIDA			
Florida State Prison	239	0	239
Corrections Mental Health Institution	1	0	1
Broward Correctional Institute	0	2	2
GEORGIA			
Georgia Diagnostic & Classification Center	112	0	112
Women's Correctional Institution	0	2	2
IDAHO			
Idaho State Correctional Institution	15	0	15
ILLINOIS			
Menard Correctional Center	54	0	54
Pontiac Correctional Center	34	0	34
INDIANA			
Indiana State Prison	34	0	34
Indiana Women's Prison	0	1	1
KENTUCKY			
Kentucky State Penitentiary	27	0	27
LOUISIANA			
Louisiana State Penitentiary	40	0	40

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STATE/Institution	Inmates Under Sentence of Death as of March 31, 1986		
	<i>Male</i>	<i>Female</i>	<i>Total</i>
MARYLAND			
Maryland Penitentiary	17	0	17
Maryland Correctional Institution for Women	0	1	1
MISSISSIPPI			
Mississippi State Penitentiary	44	2	46
MISSOURI			
Missouri State Penitentiary	42	0	42
MONTANA			
Montana State Prison	5	0	5
NEBRASKA			
Nebraska State Penitentiary	13	0	13
NEVADA			
Nevada State Prison	30	0	30
Nevada Women's Correctional Center	0	2	2
NEW HAMPSHIRE	0	0	0
NEW JERSEY			
State Prison, Trenton	18	1	19
NEW MEXICO			
Penitentiary of New Mexico	5	0	5
NORTH CAROLINA			
Central Prison	60	0	60
OHIO			
Southern Ohio Correctional Facility	58	0	58
Chillicothe Correctional Institute	1	0	1
Ohio Reformatory for Women	0	2	2
OKLAHOMA			
Oklahoma State Penitentiary	56	0	56
Mabel Bassett Correctional Center	0	1	1
OREGON			
Oregon State Penitentiary	1	0	1
PENNSYLVANIA			
State Correctional Institution, Graterford	23	0	23
State Correctional Institution, Huntingdon	39	0	39
State Correctional Institution, Pittsburgh	1	0	1
SOUTH CAROLINA			
Central Correctional Institution	43	0	43

STATE/Institution	Inmates Under Sentence of Death as of March 31, 1986		
	Male	Female	Total
SOUTH DAKOTA	0	0	0
TENNESSEE			
Tennessee State Penitentiary	55	0	55
Tennessee Prison for Women	0	1	1
TEXAS			
Ellis One Unit, Huntsville	225	0	225
Mountain View Unit, Gatesville	0	3	3
UTAH			
Utah State Prison	7	0	7
VERMONT	0	0	0
VIRGINIA			
Mecklenburg Correctional Center	25	0	25
WASHINGTON			
Washington State Penitentiary	6	0	6
WYOMING			
Wyoming State Penitentiary	3	0	3
TOTAL	1,665	20	1,685

through the state contact person who had been designated by the director of corrections in the DOC survey. The surveys were bundled as individual packages for each institution. The cover letter to the state coordinator asked that the staff surveys be distributed to the staff who worked most closely with death-sentenced inmates, including the unit supervisor, security staff from each shift, and at least one nonsecurity person such as a caseworker, counselor, or psychologist. Five to 10 staff surveys were sent to each institution.

In institutions with 20 or fewer death-sentenced inmates, surveys were sent to all inmates. In institutions with more than 20 death-sentenced inmates, project staff selected a random sample of individual inmates (40 percent of the death row populations of 20 to 50 inmates and 20 percent of the populations above 50) and asked that the surveys be given only to those inmates. A list of the particular inmates was included with the institution's survey package. Because of their limited number and the special issues they present, all female inmates under sentence of death were surveyed.

A cover sheet attached to each survey explained the nature of the research project and stated that all information would be kept confidential. No person would be identified by name or institution. The staff questionnaire did not ask for the respondent's name, although it did ask about the position held and length of service, both in corrections and at that particular institution. The inmate survey left optional whether the inmate provided his or her name (although most responding inmates did, in fact, sign their names). An addressed envelope was also attached to each survey, and respondents were asked to place the completed survey in the envelope and seal it. Most surveys were returned in groups from the individual institutions.

Survey Responses

When a survey was received at ACA's central office, it was recorded according to institution in order to track rates of return. Each survey was then assigned a record number, and the data were transposed into a specially designed computer database. (See Table 2.3.)

Table 2.3
Response Rate Among Capital Punishment States

Total number of states with capital punishment statutes	37
Total surveys sent	37
Total responses received	37 (100%)
Total surveys received	36 (97%)
Total number of states with inmates under sentence of death as of 3/31/86	33

The wardens of 40 institutions in 29 states responded to the surveys. As noted above, following the return of the DOC survey, four of the 33 states that had inmates under sentence of death declined further participation in the study due to impending or ongoing policy changes and lawsuits regarding death-sentenced inmates. Three specialized institutions in the 29 states that continued to participate in the study were also eliminated from the survey field because they were mental health facilities, and their experiences would not reflect the concerns of institutions that are normally designated to receive inmates under sentence of death. (See Table 2.4.)

Table 2.4
Response Rate Among Wardens

Final survey field for wardens	40 (29 states)
Male institutions	28
Female institutions	10
Male institutions designated as of 3/31/1986 to house the state's female inmates under sentence of death	2
Number of surveys sent	40
Number of surveys received	40
Response rate--survey field	100%
Responses as percent of all wardens in regular institutions housing inmates under sentence of death	85.1%

Between five and 10 surveys, depending on the size of the death-sentenced population, were sent for distribution to staff in the 40 institutions in the final survey field. Responses were received from at least one staff member in each institution, and 100 percent staff returns were received from more than half of the institutions. The breakdown of the return rates by institution is shown in Table 2.5.

As noted above, surveys were sent for distribution to all inmates under sentence of death in institutions housing 20 or fewer inmates in that status. For institutions with larger death row populations, the inmate rosters furnished by the departments of correction were used to select at random either 20 percent of the inmates under sentence of death (in populations above 50) or 40 percent (in populations above 20 but less than 50 inmates).

Table 2.5
Response Rate Among Staff

100% return:	22 institutions
90% return:	5 institutions
80% return:	8 institutions
60% return:	2 institutions
40% return:	2 institutions
10% return:	1 institution
Total number of staff surveys sent	289
Total number returned	254
Response rate--survey field	87.8%

Fifty-three percent of all inmates surveyed returned completed questionnaires, though, as was expected, the inmate response rate was the lowest of the four surveys. (See Table 2.6.) Completed questionnaires were received from at least 60 percent of the designated inmates in one-half of the institutions surveyed and from at least 50 percent of the designated inmates in more than two-thirds (67.5 percent) of the institutions surveyed. Ten institutions, with populations ranging from one to three inmates under sentence of death, had 100 percent returns. The second highest return rate, 91 percent, came from an institution with a total death-sentenced population above 50. Response rates ranging from 70 to 89 percent were received from four institutions, and response rates ranging from 50 to 69 percent from 12 institutions.

Table 2.6
Overall Return Rate for Inmate Survey Population

	<i>Male</i>	<i>Female</i>	<i>Combined</i>
Total in state prisons as of 3/31/86	1,665	20	1,685
Final survey field (40 institutions in 29 states)	1,479	20	1,499
Surveys sent	427	20	447
Surveys received	223	14	237
Response rate--survey field	52.2%	70.0%	53.0%
Percent of total death row population as of 3/31/86	13.4%	70.0%	14.1%

No completed inmate surveys were received from five institutions (total death-sentenced populations ranging from one to five). Four institutions sent responses from fewer than 39 percent of the inmates surveyed, and four other institutions had response rates in the 40 percent range.

Reasons for the low response rates from some institutions seemed to center on the inmates' fears that answering the questionnaire could jeopardize their legal appeals process. This concern was reported by both administrators and a few inmates themselves on their blank survey forms. A few inmates seemed to fear that the research project was not legitimate. Some attached notes to their completed surveys asking that their receipt be acknowledged if possible. Some inmates were advised by their attorneys not to respond. Inmate illiteracy may also have lowered the return rates. Although project staff asked that correctional staff administer the questionnaires to any illiterate inmates and sign that they had done so, this may not have been possible in some cases.

Demographic Data on Death-sentenced Inmates

The ACA/NIJ study has produced data indicating that, in general, a death-sentenced inmate in a correctional facility has the following characteristics:

- Is male
- Has at least a high school education
- Is not married
- Has at least two children who live with their mother
- Has been convicted of murder
- Has appealed his sentence at least twice and has an appeal pending
- Has not been convicted of another crime since first receiving the sentence of death
- Is classified as being in maximum custody
- Lives in a "death row housing unit" in a single cell
- Is isolated from the general population inmates
- Spends the majority of his time sleeping, watching television, working on his legal appeals, writing, and reading books
- Is visited mainly by his parents, siblings, and friends
- Writes mainly to his parents, friends, and lawyers
- Wants to work while in prison, but is not permitted to
- Thinks that death sentences are now more likely to be carried out
- Does not think his sentence will be carried out, nor does he want it to be

The Bureau of Justice Statistics (1989) provides the following descriptive information concerning inmates who were under sentence of death at year-end 1988:

1. 2,124 inmates were under sentence of death--23 (1.1 percent) of whom were female.
2. All but one had been convicted of murder.
3. Approximately 66 percent had prior felony convictions.
4. Nine percent had a previous conviction for homicide.
5. Forty percent had an active criminal justice status at the time of their capital offense. (One-half were on parole, and the rest were either in prison, on escape, on probation, or had charges pending.)
6. 58.3 percent were white (non-Hispanic), 40.2 percent were black, 6.7 percent were Hispanic, 1 percent were American Indian, and .6 percent Asian.
7. Their median age was 33 years.
8. 0.5 percent were under the age of 20.
9. Two percent were 55 or older.
10. The youngest was 17 years old.
11. The oldest was 77 years old.
12. One in 10 had not gone beyond the seventh grade.
13. One in 10 had some college education.
14. The median level of education was nearly 11 years.
15. Fewer than one-third were married.
16. Nearly half had never been married.

Chapter 3: Legal Issues

The continuing rise in the death-sentenced population combined with the extreme nature of the sentence and the extent of appellate possibilities leads to more litigation for condemned inmates than for those in the general population. This litigation takes many forms, all of which affect those whose job it is to manage these inmates. This chapter examines the legal cases received with the surveys and how this litigation affects the management of death-sentenced inmates.

At least six states have litigation that has resulted in consent decrees or some other level of legal agreement. These include *Daniels v. Zant* (Georgia), *McClelland v. Armontrout* (Missouri), *Ruiz v. Procunier* (Texas), *Thompson v. Enomoto* (California), *Groseclose v. Dutton* (Tennessee), and *Rust v. Gunter* (Nebraska).

Other cases have been dismissed or are still pending, yet offer additional insight into evolving legal standards for managing inmates under the death sentence. These cases are summarized in Table 3.1 by state, date of initial litigation, issues considered, and resolution.

An analysis of consistent standards in these precedent-setting cases may help in setting guidelines that are constitutionally acceptable. It may also help those administrative areas that have the greatest variation in developing standards.

Management has an obligation to develop a written policy that addresses the purpose of death row management, the authority from which the administrative policy is derived, and general policy objectives. This is true regardless of the size of the jurisdiction or death-sentenced population.

Housing

An analysis of the policies reviewed for this project illustrates that a consensus exists among correctional administrators that inmates with death sentences be housed in an area that has minimal contact with the general population. While the nature and extent of possible death-sentenced population integration remains a controversial issue, none of the existing consent decrees set legal standards in this area. Policies vary widely regarding contact both on and off the death row unit, and it appears that legal guidelines in these areas are minimal or nonexistent.

Both legal agreements and existing policy analyses demonstrate a consistent attempt to define major terms used within these housing units. This includes definitions of separate classifications within the death-sentenced population, such as general population death-sentenced inmates, those in disciplinary segregation, and those in protective custody or administrative segregation status within the unit. While policy definitions attempt to separate these classifications within the unit, they do not appear to have a legal origin in any of the cases noted.

Table 3.1
Cases Pertaining to Death-sentenced Inmates as of July 15, 1989

<i>Case</i>	<i>State</i>	<i>Date</i>	<i>Issue(s)</i>	<i>Status</i>
Sullivan v. Wainwright	FL	1/81	Exercise	Increased from 2 to 4 hours
Pardis v. Idaho	ID	3/84	Visitation	Dismissed
Creech v. Idaho	ID	3/85	Marriage Proxy	Dismissed
Smith v. Murphy	ID	4/85	Haircuts	Decision for Defendant
Sivak v. Murphy	ID	3/85	Diet, Mail	Dismissed
Sivak v. Murphy	ID	12/85	Property	Dismissed
Sivak v. Murphy	ID	4/85	Visitation	Dismissed
Delvecchio v. Lane	IL	3/81	Conditions of Confinement Exercise Classification Physical Plant	Pending
Brisbon v. Lane	IL	5/81	Cavity Search Attorney Visits	Dismissed
Wallace v. Duckworth	IN	4/86	Double Celling	Pending
Bell v. Thigpen	MS	2/83	Mail Law Library Medical Treatment Living Conditions	Consent Order
Culberson v. Thigpen	MS	9/85	Conditions of Confinement	Pending
Johnson v. Cabana	MS	1/86	Court Access	Pending
McDonald v. Armontrout	MO	8/85	Conditions of Confinement	Consent Decree
Otey v. Benson, et al.	NE	9/82	Work Stipend	Dismissed
Rust v. Eggers	NE	1/86	Due Process	Settlement Agreement
Biegenwall v. Farver	NJ	7/84	Legal Access Visitation Phone Calls Right to Work	Dismissed
Williams v. Rice	NC	9/85	Out-of-cell Time	Dismissed
Brown v. Procnunier	VA	9/81	Conditions of Confinement	Consent Order
Jeffries v. D.O.C.	WA	9/84	Visitor Search	Decision for Defendant

Personnel Administration

Whether generated from legal requirements or traditional management principles, nearly every department of corrections or institution housing death-sentenced inmates has a policy that includes listing the different personnel involved in different levels of administration, together with a description of their duties, responsibilities, and job assignments. This includes not only those staff directly involved with the daily operation of the unit or units where death-sentenced inmates are housed, but also those staff primarily involved in that administration. The description of roles and responsibilities for each of these staff members in jurisdictions without litigation often includes specific definitions of their functions within the institution. For example, a job description that states, "The warden will visit the unit at least every two weeks," may successfully prevent court involvement.

Traditional line staff, including security personnel, transportation staff, and their immediate supervisors, often have job descriptions in this section of the policy manual. In many cases, these assignments include clearly defined lines of authority and chain-of-command obligations, detailing such operations as logbook entry requirements, visual inspection and use-of-force guidelines, work and shift schedules, and similar operational procedures as they relate to managing these inmates. The ever-present legal scrutiny of death row units over the last 12 years may be part of the motivation for defining these roles, but the goal of well-defined management seems apparent in the survey responses of most jurisdictions.

Procedures

This project's staff reviewed written documentation of procedures, which appears to have preceded any legal requirements for such documentation. Several of the procedural needs for this special population have been addressed consistently in litigation to the point that guidelines appear to be evolving regarding these areas of administration.

Custody and Security

Written procedures for custody and security are necessarily based on the traditional needs of a high-security unit operating 24 hours a day on a continuing basis. Due to the specialized needs of this population (more legal visits, possible media interaction, consequences of escape, etc.), a few institutions require specialized training for the staff working in the units where death-sentenced inmates are housed. However, it should be noted that none of the court orders reviewed make this a legal requirement.

The written procedures for security and custody also specify timetables and positions for the posting of officers, shift duties, lines of command and communication, and procedures for the transfer and movement of both death-sentenced inmates in general and those presenting special management problems, such as the disruptive or suicidal. Greater specificity in these procedural sections offers active protection from litigation based on court rulings that systems were unconstitutional because the necessary procedures had not been delineated (e.g., *Ruiz v. Estelle*). It is also clear from litigation concerning individual redress to alleged systems' shortcomings (e.g., suicide attempts and lack of protection from attack by another inmate) that even more detailed written unit procedures are needed in such areas as search and inspection (e.g., *Brisbon v. Lane*), response requirements to violent behavior at all levels, and both the receipt and transport of all inmates under sentence of death.

Orientation

Inmates under sentence of death require written procedures to ensure proper orientation regarding their status. These procedures relate to the need for separating an individual from the

general inmate population as well as from other death-sentenced inmates during the initial reception and orientation phase. While none of the lawsuits reviewed specifically addresses alleged shortcomings in such procedures, it is logical that failures while in this status (such as suicide, attack by another inmate, or escape) leave administration vulnerable to legal action if preventive measures are not in place. Typically, written procedures for the inmate in this status include methods and timetables for documentation of criminal history, a special needs assessment, and staff members responsible for completing each orientation component.

Classification

The process for classification is a factor in a number of legal cases (e.g., *Daniels v. Zant*), yet considerable diversity remains and few legal guidelines seem consistent in this area across jurisdictions. In some cases, classification is used to determine which inmates can have meals outside their cells (*Thompson v. Enomoto*) or attend group religious services (*Ruiz v. Procunier*). In jurisdictions allowing some inmates to work, classification is used to assign "work capable" status to condemned inmates (*Ruiz v. Procunier*).

In general, the consent agreements find classification most critical in those jurisdictions where some inmate activities are group-based or involve integration with other inmates. Classification status is linked to recreation, program participation, out-of-cell meals, program service availability, and off-tier work participation. In those instances where integration into the general population is undertaken for some or all inmates under sentence of death, classification plays a critical role.

There does not appear to be a consensus regarding the need for classification guidelines to distinguish among the general death-sentenced population according to either security or program needs. Arguments by the State of Georgia in the case of *Daniels v. Zant* center on the position that this group, by definition, is the highest level of custody and presents the greatest security risk. Therefore, any kind of classification is unnecessary. However, survey responses and policies suggest variations in the need for security and monitoring for individuals on these units. Furthermore, the attempts of some institutions to integrate some death-sentenced inmates into the general inmate population have often called for the type of screening of integration candidates best accomplished through classification.

Another consideration is that crowding has forced many prisons to resort to double celling, even for those under sentence of death (*Wallace v. Duckworth*). This has resulted in the need for classification that would lead to better celling assignments. Finally, with the size of death row populations in some states surpassing 300 inmates, it is unlikely that a group this size can be effectively managed without some organized attempt to classify custody, program, and service needs. Regardless of the need for classification, it appears that none of the court cases noted have provided legal standards or guidelines regarding the nature and/or extent of the classification process for these units.

Personal Hygiene and Property

Aspects of personal hygiene and property are addressed in more than one lawsuit (e.g., *Smith v. Murphy* and *Sivak v. Murphy*), as well as in the cases concerning conditions of confinement. The reason for what may appear as excessive attention to these areas may well be the combination of the need for elevated security for this group and the extra legal and public scrutiny given to them.

While these court cases do not suggest specific guidelines in these areas, they demonstrate a need for specific written policies that address detailed property rights (or contraband definitions), procedures to deal with property and property rights during transfers of these inmates, the provision for receiving property gifts during visits, restrictions of property related to hygiene (razor use, etc.), codes for hair length and style, and religious or medical exceptions to these rules.

Records

Maintenance of records is most often addressed in those cases considering conditions of confinement. Cases often cite the need for records in terms of liability protection for the agency and staff rather than in terms of inmate rights. Components seen as critical for these records include the following:

- Unit log book
- Incident reports and format
- Use-of-force reports and format
- Minutes of classification meetings
- Grievance procedure notations
- Disciplinary write-ups
- Documentation of administrative segregation or other status changes
- Requests and responses for protective custody, medical intervention, or other specialized program or security needs
- Training records

Food Service

Other than litigation addressing general conditions of confinement, several cases involve food service policies in their connection with out-of-cell time. A California case (*Thompson v. Enomoto*) deals with an inmate's assertion that he was entitled to out-of-cell meals through a consent decree calling for "grade A" classification death-sentenced inmates to be able to eat their noon meals at tables outside of their cells. In *Ruiz v. Procnier*, classification was also connected with food service through assignment of "work capable" inmates to dining tables in their dayrooms. An older case, Kentucky's *Kendrick v. Bland*, however, addresses all areas of segregation, calling for allowing all death-sentenced inmates to eat both lunch and dinner in the prison's central dining room. Although not the product of a court order, it is interesting to note that Arizona's policy in this area has classification permitting those inmates under sentence of death with lower classification to be taken to the general population mess hall for three meals a day.

The issue of food service and its delivery is critical to administrators of units for death-sentenced inmates because of its connection with institutional security. Within these special units, which in many jurisdictions are quite small, separate food service to this group poses many administrative challenges.

Survey responses demonstrate that meals for death-sentenced inmates are most often delivered from a central kitchen and then served by security staff to inmates in their individual cells. The food service sections in many of the policy manuals reviewed spell out in great detail the procedures in these areas, including timing of meals, response expectations when disturbances take place, specialized meal needs (religious, medical, etc.), and special security issues connected with food service (paper plates for assaultive inmates, utensil counts, hoarding food for barter, etc.).

Finally, because of recent incidents with death-sentenced inmates attempting to starve themselves, procedures sometimes define steps to take in these situations.

Medical Service

Most conditions of confinement cases involving inmates under sentence of death have sections dealing with medical treatment. In addition, specific inmate litigation (*Bell v. Thigpen*) alleges inadequacies in this area.

Generally, survey results demonstrate that medical services should be provided according to the established procedures of the medical department. As a general procedure, it is preferable to provide medical care to each inmate in his or her cell because of the specialized security needs that usually result when a death-sentenced inmate must be removed from the cell or housing unit.

In these cases, the medical department often assigns staff members to searches and related security procedures.

Legal Services and Access to Law Library

The best available guideline for law library access comes from Nebraska's *Rust v. Gunter*. This plan calls for death-sentenced inmates to be allowed the opportunity to visit the law library at least two hours per day, five days per week. Related issues, such as general guidelines for use of the law library, have been addressed in *Pruett v. Lucas*. Frequently, units for death-sentenced inmates either have their own library or designate an inmate advisor who may be responsible for these requests or even the materials acquisition from the law library.

The general legal principle is that a death-sentenced inmate has the right to have access to the institution's court-appointed attorney on an individual basis on request. Related issues are addressed in conditions of confinement suits, as well as *Brisbon v. Lane* (attorney visits) and *Biegenwall v. Farver* (videotapes of attorney visits).

In the more infrequent situations where transportation to the law library is permitted, procedures are required to spell out security measures, such as the use of restraints, and timetables for this activity.

Library access, particularly in connection with legal materials, is also addressed in *Bell v. Thigpen* and *Pruett v. Lucas*. Major jurisdictional variations in library procedures and access are connected with both facility size and whether the library is located on or off the housing unit. Specifications in existing legal cases require written procedures for access, timetables for visitation, and required library materials. In the cases involving a library on the unit, separation of individual inmates is accomplished either through timetable separation or use of a single inmate responding to materials requests from the others. In the cases involving a library not on the unit, escort and search procedures are necessary.

Recreation

The most frequently addressed issue in death row litigation is recreation. Although this high level of legal activity suggests that guidelines may be developing, this is not necessarily true. The primary reasons for continuing disparity include the differing definitions of recreation and the connection of classification with recreation limits. Some jurisdictions call all out-of-cell time recreation, whereas others divide this time into an exercise period, mealtime (where meals are out of cell), work time (where work is permitted), and similar divisions of out-of-cell activities. Only some jurisdictions have classifications for inmates under sentence of death, and those that do tend to differentiate which inmates are entitled to recreation and for how long rather than relying on a global standard for all inmates in this status. A look at the variation in existing consent decree arrangements helps pinpoint these differences.

McDonald v. Armontrout in Missouri develops provisions for indoor and outdoor recreation that provide for phased increases in recreation time to at least 32 hours per week, phased increases in the size of recreation groups to at least four inmates, and renovations in both indoor and outdoor recreational facilities for death-sentenced inmates. While this stipulation for a mix of inmates at recreation appears to contrast with the trend toward maximum separation of individual inmates in this status, it is noteworthy that Virginia inmates with death sentences are allowed out of their cells in groups of six or seven from 8 a.m. to 8 p.m. daily (NAACP/LDF 1986). They also eat meals outside their cells, are allowed group religious services, and receive 10 hours of outdoor recreation per week, again in groups of six or seven inmates.

In contrast, Georgia's 1981 consent agreement, *Daniels v. Zant*, guarantees a minimum of 32 hours per week of out-of-cell time. Also, at least six hours per week of outdoor exercise are required. While the decree does not specify the size of the recreational area, it does specify equipment, including an obligation to provide softballs and gloves, footballs, basketballs, and volleyball equipment. This out-of-cell time is not tied to classification status, although the decree does link

classification needs to decisions about suitability of religious and similar activities allowing group participation.

Kentucky's decree, dealing with all segregation areas rather than just inmates under sentence of death, requires five-and-three-fourths hours out-of-cell time per day, seven days per week. Exercise is to be available both in the death row yard and in the prison gymnasium. Although not the result of a court decree, Arizona's inmates under sentence of death are classified into two groups. The group assigned to lower security is permitted an hour of yard time each day.

A similar process tying classification to recreation time is used through the Texas agreement *Ruiz v. Procnier*. The agreement classifies some death-sentenced inmates as "work capable," which in turn puts them in a program in which they are out of their cells 90 hours per week. At least four hours of the recreation is outside every day. Those Texas inmates with death sentences who do not fit this classification are guaranteed three hours of outdoor recreation, five days per week, and are allowed to attend group religious services.

The agreement in California, *Thompson v. Enomoto*, also classifies inmates relative to recreation limits. "Grade A" status inmates under sentence of death receive six hours per day of out-of-cell time, seven days per week. All inmates, regardless of classification status, are given 12 hours of outdoor recreation per week. Nebraska's *Rust v. Gunter* assigns 13 hours of outdoor exercise per week to inmates under sentence of death, as well as four-and-two-thirds hours per week of dayroom time. Under combinations including work, meals, and recreation, the Nebraska death-sentenced inmates are permitted 40 hours per week of out-of-cell time.

A large proportion of the litigation concerning death-sentenced inmates includes aspects of recreation. In addition to the overall conditions cases, *Sullivan v. Wainwright* and *Ruiz v. Estelle* focus on aspects of recreation activities available in these units. In some cases, court orders have dictated standards in these areas. For instance, *Sullivan v. Wainwright* orders a change from two to four hours for inmate activity in its 1981 order in Florida.

Typical procedures and policies reviewed in this area tend to spell out exact rules for timing and placement for recreation. Often, special procedures are required for those death-sentenced inmates who have some special status (e.g., protective custody, orientation, disciplinary detention, or medical restriction). In the cases where inmates do not exercise separately, rules for grouping are integral to the written policy. This is equally true for the specificity required for searches before and after recreation, process for refusal, or even the procedures for changing channels when television viewing is the recreation.

Visitation

Three lawsuits specifically address visitation: *Pardis v. Idaho*, *Sivak v. Murphy*, and *Biegenwall v. Farver*. In some cases, this is aimed at visitation of family and friends, while others pertain to attorney visits. Procedures often establish separate rules for family visits and professional visits by an attorney or doctor.

Survey results demonstrate, both before and after litigation, that most written procedures (and all jurisdictions have some) detail who is permitted to visit, the number of visitors allowed at one time, the conditions of visitation, and the timetable for these events. Institutions vary as to whether they permit visits to take place in the same area used for general population visits (in which case the policies establish separate times), or in a section used only for death-sentenced inmates. Each also has written procedures for moving to and from these areas as well as procedures for searching inmates and their visitors.

Counseling Services

Legal aspects of counseling services appear to be contingent on the definition given to "counselor" in institutional policies. In some cases the term focuses on a role like that traditionally ascribed to "caseworker," while in others, the role is reserved for the psychologist and related mental health staff serving the institution.

Regardless of these distinctions, survey responses demonstrate most staff members and inmates feel a greater need for these kinds of services, for both inmates and the staff. Nevertheless, it is interesting to note that, apart from general considerations in conditions of confinement suits, none of the reviewed litigation specifically considers counseling services of any sort. The survey responses appear to be based on the specialized needs of this population (e.g., anticipation of execution, separation from general population, and uncertainty of appeals), yet these concerns do not seem to be reflected through a similar level of legal action in this area.

One unusual aspect in this category relates to the recent legal attention and controversy regarding inmates who may become mentally ill while under sentence of death. The general legal principle is that states cannot execute inmates who have lost their ability to comprehend their impending death or reasons for it. Methods to test the sanity of inmates with death sentences, therefore, are beginning to receive greater legal scrutiny. Recent cases (e.g., *Ford v. Wainwright*, 1986) illustrate that this sanity test should be judicial and not administrative, yet keep the requirement that the inmate be mentally competent before being executed. Such recent legal findings suggest the clearly administrative role of counselors will not be central in this determination.

Still another legal consideration comes from the knowledge that specialized services may be required when an execution is carried out. This situation poses special problems both for the inmate to be executed and for those with future execution dates. Although the survey responses of many jurisdictions find this an important need, no legal guidelines for personnel, training, or method of intervention appear to exist now.

Other Programming

Litigation addresses several other areas of death row management. These include such diverse issues as marriage proxy for inmates under sentence of death (*Creech v. Idaho*), aspects of the death watch (*Sivak v. Murphy*), and inmate work stipends (*Otey v. Benson*). In none of the cases relating to these program services are guidelines specified through court decisions that would be helpful to current administrators. The great variation in program service delivery between jurisdictions (due to such factors as unit size, physical plant configuration, and extent of population mix) makes it unlikely that standards appropriate to all jurisdictions will be developed in these areas in the near future.

Consent Decrees and Other Legal Orders

Despite the presence of more than 20 lawsuits concerning aspects of management of death-sentenced inmates, only six have currently developed into consent decrees or similar legal orders. The following are the major areas addressed through the legal agreements reached in these cases:

- *Daniels v. Zant* (1985--Consent Decree): Classification, disciplinary guidelines, out-of-cell activity, visitation, access to courts, religious services, and recreation.
- *Thompson v. Enomoto* (1979--Consent Decree): Classification, disciplinary guidelines, out-of-cell activity, tier and off-tier movement, unit equipment and services, personal property, religious services and counseling, educational services, medical, attorney access, and visitation.
- *Groseclose v. Dutton* (1986--Death Row Plan): Classification, food services, security procedures, medical services, counseling, and jobs.
- *McDonald v. Armontrout* (1985--Consent Decree): Religious services, medical services, mental health services, classification, staffing, recreation, and visitation.
- *Ruiz v. Procunier* (1985--Stipulation): Activity plan, classification, work, and recreation.
- *Rust v. Gunter* (1986--Consent Decree): Telephone use, legal material access, recreation, and law library access.

Most others remain pending or have been dismissed. When this relatively small number of agreements is combined with the large variety of these units across jurisdictions (e.g., size, appeals access, physical plant location, etc.), it is clear that there is a long way to go before legal standards and guidelines will be consistent across jurisdictional lines for the management of these inmates. In the meantime, it is helpful to consider the few legal guidelines that have evolved from the six consent agreements in areas related to the management of units housing death-sentenced inmates.

In the area of classification, all consent agreements call for written policies and procedures in this area; however, the individual goals are quite different. In cases in which group activities are allowed (e.g., for meals, attending religious activities), classification determines which inmates are eligible. In cases of partial integration into the general population, classification makes a similar determination. Finally, in those systems allowing some inmates under sentence of death to work, the classification becomes the process under legal scrutiny for determining eligibility. This also holds true when different levels of recreation (e.g., individual or group) are made available to these units through court order.

In connection with recreation, several guidelines seem to be developing. First, some level of recreation is ordered in each case. Second, definitions of out-of-cell time seem critical, as some jurisdictions refer to all out-of-cell time as recreation, while others exclude outside exercise, inside exercise, watching television, having out-of-cell meals, attending programs outside one's cell, going to a work program, and other activities. Most court orders appear to require policy definitions for each of these with time requirements for specified recreation ranging from approximately one to four hours per day.

The concept of integrating inmates under sentence of death into the general population is not addressed in court orders in the sense of being mandated or prohibited. Instead, it appears to be the position in most of these agreements that the legal requirement is for an objective classification within this group. This in turn will give prison administrators the data needed for appropriate integration approaches, such as for some inmate classifications in specialized work, recreational, or meal settings.

Finally, consent agreements generally appear not to sanction or endorse such concepts as partial integration with the general population or the right of these inmates to work, but instead require a valid process of administrative decisions through appropriate classification and policy-stated goals that in turn will determine the specific limits of these policies and procedures.

American Bar Association Activities

Laurence Bodine, editor and publisher of the ABA Journal, states:

The ABA's concern is that persons sentenced to death have legal counsel on appeal; the Association has no position on the death penalty per se. The goal of the postconviction death penalty representation project of the Individual Rights and Responsibilities Section of the ABA is to find members to represent death row inmates in postconviction proceedings (ABA Journal 1987).

This postconviction death penalty representation project was established in August 1986 with a \$40,000 budget to address a problem that Steven Raikin, staff director of the ABA Section on Individual Rights and Responsibilities, identified this way: "... 99 percent of these inmates are indigent and cannot afford to pay for lawyers to take up their appeals." This ABA project now coordinates emergency placement and supervision of death row appeals with bar associations, major law firms, and others on a pro bono basis. The project also is helping participating lawyers

by preparing sample pleadings, offering a habeas corpus handbook, and maintaining a directory of lawyers in all states who have successfully handled postconviction appeals.

The ABA has been active in this area for some time, having adopted a resolution in 1979 urging the United States Supreme Court to adopt a rule providing for appointment of counsel to prepare petitions for discretionary review of state court convictions of indigent death row inmates. The Supreme Court did not respond to this resolution, but the ABA has continued to be active in this area. [To obtain additional information concerning the ABA's activities and assistance, contact the American Bar Association, Section on Individual Rights and Responsibilities, 1800 M St., N.W., Suite 200 South, Washington, D.C. 20036.]

Chapter 4: Special Issues and Concerns

Through the literature review, the site visits, the discussions with correctional staff, and the analysis of the data collected in ACA/NIJ's nationwide survey of the management of death-sentenced inmates, a number of special issues and concerns were identified.

Length of Time in Death-sentenced Status

The existence of death rows in which inmates remain for extremely long periods of time due to the uncertainty of their appeals is a new phenomenon in American corrections. Before 1976, the average time on death row before execution was approximately one year and one month. The five persons who were executed in 1983 spent from four-and-a-half to 10 years on death row. The inmates who were executed between 1977 and 1984 spent an average of six years between the time of sentence imposition and the date it was carried out (BJS 1985). The Bureau of Justice Statistics indicates that those death-sentenced inmates executed during 1987 had spent an average of seven years and two months awaiting execution (BJS 1988). Many correctional facilities report that these delays are caused by a legal defense strategy designed to postpone executions indefinitely.

As of March 31, 1986, the inmates with death sentences who were included in this survey had been in that status on average more than five years, with the outcome of their sentences still uncertain. The average stay for the 14 female respondents on death row had been almost four years. The earliest death sentence received by a female inmate currently on death row dates back to 1979.

To the correctional practitioner dealing with the management of death-sentenced inmates, this increased time dictates the need for programs for condemned inmates that strike a balance between prison operations and security and the inmates' need not to deteriorate mentally and physically while awaiting the final disposition of their sentences.

Removal from Death-sentenced Status

Although the number of inmates on death row is growing, recent history reveals that a large proportion of inmates with death sentences eventually are removed from that status. Joel Berger (1987) of the NAACP Legal Defense Fund and Educational Fund maintains that many inmates on death row will win their cases, having their death sentences reduced to life or lesser terms of imprisonment. A look at the Legal Defense Fund's statistics since January 1, 1973, indicates that the deaths among this population due to executions, suicides, natural causes, and assaults represent only 9 percent of the dispositions that took inmates off the death-sentenced inmate rolls (NAACP/LDF). The LDF statistics dated July 1, 1989, indicate the following:

Executions: 115

Suicides: 27

Died of natural causes or killed while under death sentence: 44

Total: 186

The remaining dispositions during this same period that removed death-sentenced inmates from that status were through legal avenues.

Death sentences vacated under unconstitutional statutes: 559

Convictions reversed or sentences vacated on other grounds: 935

Commutations: 51

Total: 1,545

According to the Bureau of Justice Statistics, only 2.4 percent of the people who have been on death row in a state prison between 1977 and 1986 have been executed. BJS also reports that during this same period of time, 2,419 people were sent to prison under the death sentence. Of this number, 44 were women. Only one woman has been executed during this time period (BJS 1987). (See Table 4.1.)

Table 4.1
Causes of Removal from Death-sentenced Status

	1983	1984	1985	1986	1987
Total at Year's End	1,063	1,405	1,591	1,781	1,984
Received Death Sentence	252	280	273	297	299
Executions	5	21	18	18	25
Natural Deaths	5	0	1	6	5
Suicides	3	4	1	3	4
Killed	1(a)	0	2(b)	0	1(b)
Sentences and Convictions Vacated	28	16	30	12	28
Sentences Vacated, Convictions Upheld	60	40	46	45	46
Commutations/Statutes Lifted	11	1	4	7	5

a. Killed while attempting escape

b. Killed by other inmates

Source: BJS (1988)

In sum, from 1977, the year after the Supreme Court reinstated the death penalty, through 1987, a total of 2,743 people have come into prison with a death sentence, and only 93 (3 percent) have been executed. The data show that 1,086 inmates, or 40 percent of this total, have been removed from the population under sentence of death through means other than execution.

Nancy Blodgett of the American Bar Association indicates that, in general, inmates with death sentences have difficulty finding lawyers (ABA 1987). Nevertheless, the high percentage of inmates removed from death row indicates that the probability that the sentence of death will actually be carried out is unlikely.

Most death-sentenced inmates do not believe their sentences will be carried out. When the inmates were asked if they believed their own sentence would be carried out, only 31 percent indicated that they thought so, while 69 percent indicated that they felt that their sentence would not be carried out. Sixty-nine of the 237 inmates in the survey sample declined to respond to this

question. When the inmates were asked whether or not they wanted their sentence to be carried out, 5 percent of those responding indicated "yes," 84 percent "no," and 11 percent that they "didn't know." Only 24 inmates declined to respond to this question.

Sorting out the responses of female inmates in the survey sample revealed some different percentages in the responses to these questions. Only one of the 14 female inmates (7 percent) indicated she thought it more likely that death sentences will be carried out, while eight (57 percent) indicated they did not think it more likely, and four (29 percent) had no response. Only one of the 14 indicated that she felt her sentence would be carried out, while nine (64 percent) felt that their sentences would not be carried out. Four of the women (29 percent) answered neither yes nor no. One said, "God holds the answer"; one said she did not care; one said she felt her sentence would be carried out, but that "to die is to live with Jesus"; and one gave no answer. To the question, "Do you want your sentence to be carried out?" all those who responded (11 of the 14) indicated "no."

Escapes, Disturbances, and Deaths

Eighteen state departments of correction (50 percent) reported increasing management problems regarding death-sentenced inmates during the six-year period January 1980 through March 1986, but only four of the 18 reported an increase in the level of violence as one of the causes. Of these four, all also reported the increase in the numbers of inmates in this status as a management problem.

When asked about the degree of assaultive behavior among death-sentenced inmates, the majority of wardens (62.5 percent) felt there had been no change during the six-year period. Four (10 percent) felt assaultiveness had increased, and four felt the level of assaultiveness had decreased. Seven wardens (17.5 percent) did not answer the question. In general, the wardens also felt there had been no change in the rate of assaults on inmates serving death sentences. Three wardens reported an increase, two a decrease, and 28 (70 percent) that the level had remained the same. Seven wardens did not answer the question.

When asked their opinion about increasing or decreasing assaultive behavior and disruptiveness among death-sentenced inmates, the most frequent response from the inmates themselves was "don't know" (94 responses or 40 percent). Twenty-eight percent of the inmates felt death-sentenced inmates were becoming less assaultive and disruptive, 11 percent felt there was an increase, and 14 percent felt there was no change. Sixteen inmates did not respond to the question.

Ten institutions reported the occurrence of escapes or attempted escapes during the study's timeframe. Three wardens reported actual escapes. One escape occurred at a noncorrectional medical center and involved one inmate who was apprehended. The second escape occurred at an institution no longer used to house death-sentenced inmates. Of the four inmates involved, three were apprehended and the fourth was murdered by one of the other escapees before recapture. The third reported incident involved six death-sentenced inmates, all of whom were later apprehended. Only three of the inmates surveyed for this report stated they had once escaped, 233 said they had not, and two did not respond. Ten wardens reported escape attempts involving 16 separate incidents and a total of 32 death-sentenced inmates. One incident involving two inmates had occurred at the front gate of the institution. Three inmates at another institution had attempted a group escape from the visiting area. At a third institution, one inmate had attempted an escape from the outdoor recreation area, and at another, one inmate had attempted an escape from the main kitchen. The other escape incidents reported occurred in the housing units. Two of these incidents involved four inmates, one involved three inmates, five incidents involved two inmates, and four incidents involved a single inmate.

Ten of the inmates surveyed (4 percent) reported they had attempted to escape; 222 (94 percent) said they had not attempted an escape; and five (2 percent) left the answer blank. When asked to

indicate the number of times they had attempted an escape, one inmate responded "zero," eight inmates responded "one time," and one inmate responded "three times."

The surveys asked for reports of disturbances among death-sentenced inmates during the period January 1, 1980, through March 31, 1986. The survey forms defined a disturbance as either an assault involving more than three persons or any inmate-created activity that causes serious injury or more than \$500 damage.

Ten state departments of correction reported disturbances concerning death row for the six-year period. Because of the overlap in reporting "disturbances," "deaths," and "escapes and attempted escapes," as well as some incidents reported outside the timeframe of the study, it is difficult to draw any conclusions from these data without additional research.

More than 80 percent of the wardens (33 respondents) reported there had been no disturbances among their death-sentenced inmates, some noting that there had been some minor incidents, but not what they would term a "disturbance." Five institutions reported disturbances and supplied information about them. The disturbances reported ranged in severity from food-throwing incidents to hostage situations and deaths.

1. One institution reported six disturbances involving assaults, four with "stabbing weapons," during a 14-month period. These incidents involved from one to 12 inmates, but there was no report of monetary damage or injuries.
2. One institution reported a hostage situation initiated by three "ringleaders" among its death-sentenced inmates, in which six other death-sentenced inmates joined. The incident lasted approximately 10 hours with "minimal damage and no permanent injuries."
3. One institution reported numerous incidents, including fighting, assaults, and food protests. Two of the incidents reported involved staff; one was a hostage situation involving five inmates and no injuries, and one was an assault by one inmate that resulted in an officer's arm being broken.
4. A fourth institution reported disturbances associated with an escape and attempted escape. These are treated as incidents and are counted in the category of escapes/attempted escapes.

When asked whether they had ever been physically injured within the institution, 71 inmates in the survey (30 percent) said they had, 161 inmates (68 percent) said they had not, and five (2 percent) gave no response. Only 16 of the 71 gave a numerical answer to the question, "How many times have you been injured?" The highest number of injuries reported by any inmate was four.

When asked whether they themselves had ever injured someone in the institution, 16 inmates (7 percent) said "yes," 217 (91 percent) said "no," and four (2 percent) gave no response. The highest number of injuries to someone else reported by any inmate was two.

The wardens surveyed reported a total of 24 deaths of death-sentenced inmates occurring between January 1, 1980, and March 31, 1986, for reasons other than execution. The most frequent cause of death was suicide (10 cases), with one institution reporting four suicides, a second reporting five, and a third reporting one case. Five inmates were reported to have died from disease-related causes (cancer, hepatitis, etc.) and two from drug-related causes. The seven remaining deaths reported were the result of stabbings and other disturbance-related incidents. At least five of the seven disturbance-related deaths were caused by other death-sentenced inmates.

In a separately reported incident, another inmate under sentence of death was reported responsible for the death of a correctional officer. In addition, two institutions reported incidents in which a death-sentenced inmate was responsible for the death of an inmate who was not under sentence of death.

Execution Policies and Procedures

Several factors have encouraged most jurisdictions to develop execution policies and procedures.

1. Many states with capital punishment statutes have not actually carried out an execution. Of the 37 states that currently have death penalty statutes, only 13 have executed someone since 1977.
2. Differences in inmate population and execution practices make the execution policies and procedures written decades ago out-of-date or no longer applicable.
3. Changes continue to occur, like the inmate's choice of method of execution, that compel procedures to be as flexible as possible. The result is that some policies reviewed needed nearly 30 pages to outline the different options and procedures. Just a superficial look at some of the areas requiring attention demonstrates the need for this extensive detailing:

- Visitation before execution
- Timing and process for separation from others in the housing unit
- Specifications for media access
- Last meal regulations
- Timing for "last statement"
- Dealing with communication of appeals possibilities
- Determination of death by medical authority
- Transportation from execution chamber
- Postexecution relations with family and media
- Debriefing staff on institutional impact
- Pre- and postexecution trauma for staff

Nevertheless, most jurisdictions (81 percent) reported that they had written policies and procedures. In addition, many reported special practices to ensure that staff were familiar with such procedures. This included the use of "walk-throughs" of the procedures to be followed in the event of an execution. One warden noted that this had been a very sobering experience for both line staff and administrators, since none had ever been involved in an actual execution. The policy in another jurisdiction notes that

the execution of an inmate is one of the most serious responsibilities assigned to the department and the institution. An execution generates a great deal of public debate and attention and is a time for all staff to be aware of the pressures on themselves and other staff and that extra security precautions are necessary.

Several jurisdictions reported the need for specialized training for staff and for counseling to be available to both staff and inmates as part of the overall procedures governing the execution process. This need appears to be connected with the longer appeals processes now common and, consequently, the longer stays during which inmates and staff come to know each other. In addition, the fact that in many jurisdictions executions either have not occurred or have occurred very rarely and only recently suggests that the impact is not known and that counseling procedures could help prevent the difficulties possible when dealing with the unknown. It would seem that walk-throughs would be a valuable part of staff and management training, especially if there is an opportunity for staff and administrators to discuss their reactions in some depth afterwards. Such an exercise would also be helpful in reviewing the policies and procedures to see if any changes might be desirable.

Another key issue in developing policies and procedures for executions has been the assignment of executioner. In the past, choices have ranged from anonymous members of the community to prison administrators, and it appears a similar variation exists in current policies. As in the case of counseling needs, there may be a special problem for those jurisdictions choosing from prison staff, especially in cases in which the staff has come to know the inmate over a long period. Some wardens feel it is good policy not to assign execution responsibilities to the same staff members who are responsible for the daily management of these inmates.

Yet another concern is with the multiple sources of scrutiny concerning these procedures. For example, the American Medical Association has developed a position for its physicians on their role in an execution, and the procedures must take this into consideration. Additionally, attorneys will continue to watch these procedures closely for any possible legal improprieties that may save their client at this last step. Also, the public has always shown interest in this facet of prison administration, especially in those instances where either errors in the process or even lack of consistency can be discovered. Finally, legal requirements may affect some areas of these policies, such as timing for family notification or number of witnesses, and may dictate a substantial portion of these general policy components.

In sum, it appears that written policies and procedures governing executions will continue to be necessary, but that variations will exist based on execution methods, number of executions in a given jurisdiction, and legal precedents pertinent to the area.

Comprehensive Policies and Procedures

Most states have fairly comprehensive policies and procedures for executions, with many aspects of these policies and procedures being mandated by state law. Twenty-two of the 37 state departments of corrections (59 percent) reported that they had departmental policies and procedures regarding management of inmates with death sentences. The 15 departments of corrections that did not (41 percent) reported that each institution was free to set its own management policies and procedures. At least two states have both departmental and institutional policies and procedures. Twenty-seven of the 40 institutions surveyed indicated they had written policies and procedures concerning management of their death-sentenced inmates that were distinct from those issued by the department of corrections. Eleven institutions reported they did not have additional policies other than those for the department of corrections.

The varied sizes of death row populations and the increasing numbers of death-sentenced inmates in some states, coupled with the extensive litigation in this area, intensify the importance of comprehensive yet flexible policies for managing this population. One administrator said his greatest concern caused by the growing number of death-sentenced inmates is the continual revision of policies and procedures.

The question of policies and procedures also appeared among the special concerns stated by several staff who responded to the survey. One staff member responded, "Our institution needs to be able to decide the policies and procedures for our death row inmates. We don't have many so we can work with them on a one-to-one basis." A staff member in another state felt that the "policies and procedures are too general; they need to be more specific," adding that "all staff need training on death row management."

One of the best descriptions of the importance of comprehensive yet flexible policies and procedures for inmates under sentence of death came from a warden in a state that, during the past seven years, has experienced the tension of a major escape, followed by relocation of its death-sentenced population to a new facility, and then the tension of carrying out several executions. The new institution has a special unit for inmates under sentence of death with carefully developed institutional policies and procedures. Both inmates and staff report that conditions

have greatly improved. Wrote one staff member, "The inmates just follow the rules—they respect the officers a lot and understand it is a job." The warden of that institution wrote:

Our management philosophy, which is basically defined as participatory management, would be useless without proper and well-written policies and procedures. Virtually all aspects of life in the unit are addressed and every inmate and staff member is made aware of what is expected. Clear and concise instructions are provided to inmates on every identifiable situation or problem that might arise. Those situations that arise that are not clear or covered are dealt with by the staff *on a daily basis*. [Emphasis added] The unit has the best sanitation record, the fewest disciplinary reports, and gives us the least trouble in the institution. By providing the staff with well-defined goals and well-written, definitive policies and procedures, you can expect and get the very best supervision.

Management Options for Large and Small Death Rows

The size of death row varies considerably from jurisdiction to jurisdiction and from institution to institution. Currently, of the 36 states with capital punishment statutes, 34 have imposed death sentences. These 34 states have from one inmate under sentence of death to 302 inmates in this status. On July 1, 1989, eight states had fewer than 10 death-sentenced inmates; five had from 10 to 29 inmates; 15 had from 30 to 99 inmates; and six had 100 or more inmates. As of July 1988, one state had more than 300 death-sentenced inmates, and two states had 200 or more death-sentenced inmates. All other states had 120 or fewer inmates in this status.

Variations on the size of the death row population clearly have profound implications for management. Managing a death-sentenced population of 50 to 100 inmates and managing a population of one to 10 inmates presents different management problems and options. The transition from small numbers of inmates in this status to increasingly larger numbers is a critical issue for most institutions. The housing areas set aside for death-sentenced inmates in most institutions have defined capacity limits. The growing number of legal findings and the increasing number of condemned inmates suggest that population projection and planning are needed.

A special issue involving the management of death-sentenced inmates was identified by the site visit to the Kentucky State Prison at Eddyville, which uses the unit management concept. Unit management could be considered as an option for management of death row.

Unit management encourages security as well as good communication between staff and inmates by providing an area of housing and programming space where most or all of the institutional activities can take place. A unit-based "management team" is responsible for the daily operations and, to the extent possible, programs and services are carried out in the unit.

Conceptually, this type of management approach could be of great value in managing death-sentenced inmates by facilitating the provision of the security and special program needs presented by inmates with death sentences. Through classification within the unit, inmates in this status can be grouped by security and program needs, so that those requiring less control and restraint can have more out-of-cell time within the confines of the unit, which is itself secure.

The unit management concept situates most staff members involved in the unit operation within the immediate area. Because staff are readily available, there is an opportunity to defuse problems and sense changes in inmate behavior before they reach crisis proportions. A unit management team typically includes a unit manager who has overall responsibility for the unit, a case manager, correctional officers who are specially trained for the assignment and permanently assigned to the unit, and caseworkers or counselors who provide services to the inmates in line with their specialized needs.

Institutions that have set up unit management operations for their death-sentenced populations report that they are pleased with the results. More open and frequent communication be-

tween staff and inmates was reported favorably by both groups. At least one institution in the survey field with a death-sentenced population of more than 50 inmates reported it was in the process of developing unit management so that it could divide its death-sentenced inmates according to violence potential and level of privileges.

Juveniles on Death Row

It is probable that no other subgroup within the overall death row population has received as much attention, both legal and public, as juveniles. Correctional administration often faces special issues with this group in both special needs programming and the frequent need for some level of separation from the rest of the population with death sentences. Juveniles may become somewhat like those in protective custody within the general unit population.

There have been 281 executions in this country for crimes committed while the defendant was under 18, and 190 have been since 1900 (Streib 1987). A state director pointed out that "by the time a 'youth' is to be executed, he has become an adult by any standard. A 17-year-old is an exception and presents no special problems if death row inmates are segregated." The Bureau of Justice Statistics reports that at year-end 1988 the youngest offender under sentence of death was 17 years old (BJS 1989). Questions about how to treat these youths can present administrators with both difficult problems and the uncertainties of anticipated change. These concerns are not likely to diminish, especially since there are currently more than 20 juveniles under sentence of death, and 26 states permit the execution of juveniles (BJS 1989).

The United States Supreme Court ruled in 1988 in *Thompson v. Oklahoma* that the death penalty could not be imposed on anyone 15 years of age or younger. A year later, the high court ruled in *Wilkins v. Missouri* and *Stanford v. Kentucky* that states are not banned from seeking the death penalty for those aged 16 and 17. Consequently, a minimum age of 16 has now been established for imposition of a death sentence.

Victor Streib, chair of the American Bar Association's Criminal Law Section/Juvenile Death Penalty Subcommittee, notes that many of these cases are reaching their final stages of appeal and that the issue of execution cannot be avoided much longer (ABA 1987). Assuming this to be the case, departments of correction will need to prepare for the public and legal attention that may well accompany the next series of juvenile executions. Since executions resumed in 1977, three inmates (one in South Carolina and two in Texas) have been executed for crimes they committed before they were 18 years old.

Women on Death Row

As of March 31, 1986, there were 20 women with sentences of death being held in 12 institutions. Table 4.2 lists those institutions.

According to the NAACP Legal Defense and Educational Fund (1989), as of July 1, 1989, the number of women under sentence of death had increased to 25, which represents 1 percent of the total number of inmates with death sentences. One of these female inmates is under sentence of death in two states, and two were under the age of 18 at the time of their crimes. Of the 20 female inmates as of March 31, 1986, 25 percent were black, and 75 percent were white.

The responses of the 14 women with death sentences who responded to the ACA/NIJ questionnaire reveal the following characteristics:

1. As of 1986, the average female inmate was 36 years old. The youngest was 23 and the oldest was 50.
2. When sentenced, their ages ranged from 18 to 48, with an average of 32 years.

Table 4.2
Women on Death Row as of March 31, 1986

Institution	Population
ALABAMA	
Julia Tutwiler Prison for Women	2
FLORIDA	
Broward Correctional Institute	2
GEORGIA	
Women's Correctional Institution	2
INDIANA	
Indiana Women's Prison	1
MARYLAND	
Maryland Correctional Institution for Women	1
MISSISSIPPI	
Mississippi State Penitentiary	2
NEVADA	
Nevada Women's Correctional Center	2
NEW JERSEY	
State Prison, Trenton	1
OHIO	
Ohio Reformatory for Women	2
OKLAHOMA	
Mabel Bassett Correctional Center	1
TENNESSEE	
Tennessee Prison for Women	1
TEXAS	
Mountain View Unit, Gatesville	3

3. Ten of the 14 claimed the state in which they were incarcerated was their home state.
4. Twenty-eight percent indicated that they had less than a high school education; 72 percent had at least some high school, and 43 percent indicated they had some college.
5. None of the 14 indicated that they were married. Forty-three percent indicated they were either divorced or separated, 14 percent indicated they were single, and 43 percent indicated they were widowed.
6. Ninety-three percent indicated that they had children. These children ranged in age from three to 32 years. These 32 children were mostly grown and living on their own, staying with their grandparents, or in foster care.

7. Sixty-four percent responded that they were living in death row housing units. Twenty-nine percent indicated they were living with other maximum security inmates. All but one inmate indicated she was living in a single cell. Dormitories were the other type of housing.
8. The majority indicated that they had the following items in their cells: bed, desk, chair, mirror, toilet, washbowl, television, radio, personal clothing, food, pictures, magazines and books, and some type of hobby work. Fifty percent of the inmates indicated they had a tape player in their cells.
9. Seventy-nine percent indicated that they mixed with the general population inmates. Three of the responding inmates indicated that they did not mix with the general population at any time. Those who responded that they were allowed to associate with general population inmates indicated that this usually occurred during religious activities, visits to medical facilities, and in the commissary.
10. A typical day was spent sleeping (25 percent), watching television (15 percent), writing letters (8 percent), doing some sort of hobby work in their cells (13 percent), doing institutional work (6 percent), and being involved in both school and recreation outside their cells (5 percent).
11. All responding female inmates indicated that they were allowed to receive a minimum of two visits per week and that they communicated mostly by writing to their parents and children. Almost all of them indicated they wrote to friends, and 10 (71 percent) indicated that they wrote to their lawyers.
12. All female inmates indicated that they were able to talk on the telephone at least once a week.

The survey indicates that the women have not been a security concern. Of the 14 who responded to the questionnaire, none indicated that they had escaped or had attempted to escape. All indicated that they had not physically injured someone else, and only three of the 14 stated that they had appeared before the institutional adjustment committee.

The overall management concerns for women appear to be similar to those experienced by institutions housing a very small number of male inmates with death sentences. The majority of the institutions housing death-sentenced female inmates have only one or two inmates in this status. Regardless of whether they are male or female, there are difficulties in programming for one or two death-sentenced inmates.

Pressures from Media, Government, and Special Interest Groups

The administrators of death rows across the country receive a great deal of attention from the media and certain public interest groups. In addition, they are exposed to shifts in correctional philosophy emanating from the legislative and executive branches of state government. While they have little or no control over such shifts in thinking and action, correctional managers must deal with the consequences of such shifts on a daily basis.

Changes in political leadership often are accompanied by changes in philosophy about the death sentence. There are several cases, for example, of incoming governors reversing the position of their predecessors, either for or against conducting executions. The lack of a consistent point of view and consistent expectations can precipitate new pressures for inmates as well as administrators and staff.

The concerns of the public also affect correctional management. A Gallup poll cited in the January 30, 1989, issue of *U.S. News and World Report* showed that 79 percent of Americans support capital punishment, up from 42 percent in 1966. However, there are several vociferous anti-death penalty groups, such as the American Civil Liberties Union, that carry on active campaigns to abolish capital punishment.

Public attention toward the institution and its inmates becomes intense when an execution date is set, particularly when an execution is actually carried out. Some institutions have grappled with the problem of crowd control by setting aside an area outside the secure perimeter for parking and standing by when an execution is to take place.

The public's concern and interest in those on death row and media coverage become even more intense should a disturbance or escape occur. The number of court cases brought on behalf of death-sentenced inmates also keeps the managers of these inmates in the public spotlight, and a court case in one state automatically focuses attention on conditions in the others.

Most administrators handle this attention and scrutiny with equanimity, recognizing that it goes with their position. Although few made specific reference to these pressures in their survey comments, the warden of one institution housing a large number of death-sentenced inmates stated that attention from outside groups—"media, attorneys, religious groups, anti-capital punishment organizations, sympathetic persons"—was a sizeable problem. "In general, there must be systematic, written procedures for handling external access or it can easily overwhelm operations." Clear and concise policies and procedures concerning media and public access need to be developed.

Chapter 5: Management Practices and Options

Perhaps more than any other group of inmates, those with sentences of death present both changing and specialized management challenges to those in corrections.

Managing death-sentenced inmates probably consumes a relatively high percentage of administrative time and energy, especially when one considers the legal scrutiny, public awareness and interest, increased security concerns, and transportation and visitation difficulties, as well as the time consumed through responses to media inquiries and the specialized restrictions required for this increasingly large group of long-term inmates.

This group presents challenges quite different from those presented by other inmates with long-term stays in the general population. This chapter attempts to describe some of the current management practices and options that correctional managers and staff must confront as they face the challenge of managing death-sentenced inmates.

Classification

A classification process that begins with the inmate's entry or initial placement in the correctional setting becomes a unique management tool that systematically assesses inmates and assigns them to available institutional resources. An objective classification process determines the custody needs, programs, and services most appropriate for each offender.

In general, classification for death-sentenced inmates appears to be sentence-driven. Most states automatically classify death-sentenced inmates as a special category of segregation or separate them from the general population within a maximum security institution. While the department's or institution's policies and procedures may define three or four categories of segregation and spell out the specific behavioral or evaluation criteria for classifying an inmate to administrative segregation, the category "death-sentenced inmate" has only one criterion—the sentence itself, which dictates security procedures, housing, privileges, services, and program eligibility.

For example, one institution that reported that it did not use a different classification system for death-sentenced inmates stated that these inmates are reviewed by the classification committee every thirty days but "are restricted from active participation in work or training programs due to their sentence"; these inmates are housed in the segregation unit, and their only association with inmates in the general population occurs verbally when they are in the outdoor segregation recreation area.

A few states reported a two-level classification system for inmates who have death sentences, with inmates in the "lower" category having more privileges, the opportunity to work, or more out-of-cell time. For example, one institution with a two-level system allows inmates in its less

restrictive custody status to recreate in small groups without restraints and to be granted additional privileges at the warden's discretion; the inmates in the most restrictive status are isolated from contact with any other inmate and are restrained whenever they are out of their cells. Another institution permits its "lower" classified inmates to eat their meals with the general population. States with a two-level classification system reported that while minor disciplinary problems would not necessarily reduce an inmate's classification, major rule infractions would. These states tend to conduct routine monthly or quarterly reclassification reviews.

One state with a unit management system in place for its death-sentenced inmates makes a quarterly assessment of each inmate's classification within the unit, including cell assignment, exercise shift, activities, and privileges. In addition, the wardens in some institutions that had few inmates under sentence of death reported that they were able to deal on an individual basis with each inmate in terms of granting privileges.

However, in other states with one or two inmates, inmates in a death row unit are essentially isolated from all contact. In contrast, one maximum security institution fully integrates its inmates with death sentences into the rest of the population, all of whom are serving long or life sentences. This state noted that it has experienced no past problems, but notes that it depends on the reception center for full classification of incoming inmates, including those with death sentences.

The majority of wardens and staff surveyed felt that inmates with death sentences should be separated from the general population. The survey question allowed them to indicate whether they thought all, some, or no inmates should be separated. The responses from the two groups were similar, although on the whole, the wardens were somewhat more inclined than the staff to assign some death-sentenced inmates to general population status. (See Table 5.1.)

Table 5.1
Classification of Death-sentenced Inmates

Wardens / Staff
(N=40) (N=254)

70.0%	79.9%	A. ALL death-sentenced inmates should be separated from the general population.
17.5%	18.1%	B. SOME death-sentenced inmates should be separated from the general population.
2.5%	1.2%	C. NO death-sentenced inmates should be separated from the general population.
10.0%	0.8%	Question left blank

At least one warden who responded that all should be separated commented that "this is the prevailing correctional philosophy in this state." A state director clarified that a "big problem is that even if one fatal altercation occurs between a death row inmate and another inmate or staff member, it is a news sensation! Speaking from experience, it jades staff attitude forever."

Those wardens and staff who thought some mixing might be possible were asked to indicate the three classification criteria they thought most important for determining whether an inmate with a death sentence can mix with the general population. While their rankings differed somewhat, both groups felt that the three most important criteria were institutional adjustment, psychological evaluation, and staff recommendation. (See Table 5.2.)

These responses and perceptions could prove useful to an institution that wishes to set up some type of classification within its death-sentenced population. Even if death-sentenced inmates are totally separated from the general population, classification among these inmates is still desirable, according to the survey. Separating inmates who are management/disciplinary problems from those who are not is a special concern. In the words of one staff member, "I believe

Table 5.2
Most Important Classification Criteria

<i>Wardens</i>	<i>Staff</i>	
28.6%	39.1%	A. Criminal record
71.4%	89.1%	B. Psychological evaluation
71.4%	58.7%	C. Staff recommendation
85.7%	78.2%	D. Institutional adjustment
28.6%	17.3%	E. Adjustment in previous institutions
14.3%	17.3%	F. Other

isolation is inhumane in some cases, especially if they remain on death row for over five years. A violent maximum security inmate is more dangerous than a nonviolent death row inmate."

The perception by administrators and staff of individual differences among the inmates who receive death sentences was also illustrated in responses to the question (asked only of the staff), "Should all death sentences be carried out?" Slightly more than half of the staff (51.6 percent) felt that all sentences should be carried out ("It's the law, and they've been found guilty"), and 8.3 percent felt that no sentences should be carried out, mostly on religious grounds. But close to one-third (32.3 percent) felt that only some death sentences should be carried out.

Eight state departments of correction indicated that they had made changes since 1980 in their classification system for inmates under sentence of death. In general, these states indicated an expansion of the classification system for death-sentenced inmates, with additional classification designations based on institutional adjustment.

Six wardens reported that they would like to see a change in their institution's classification system. Two of those indicated that inmates under the sentence of death should be classified as general population inmates in a maximum security prison and then be assigned opportunities for program/work assignments according to their individual classification. Two expressed the desire for more programs and work assignments, one stating, "Furnish the same opportunities as the general population." One warden indicated his institution is currently changing its system to allow greater classification for privileges and separating the inmates according to their potential for violence. One warden would like all death-sentenced inmates in segregation.

The warden of a women's institution raised the point of equity for male and female offenders. "We are very conscious of a need for consistency in treatment between males and females. Existing building constraints and difference in numbers housed can make that difficult."

Possible factors in the lack of much differential classification for death-sentenced inmates include the fact that corrections departments have had to carry out varying legal directives regarding this special category of inmate. Looking at the high figures of disposition other than execution, most of these inmates will probably not be executed. Still, most will remain in this uncertain status for five to ten years before their fate is decided.

Another factor is the continuing public debate about the death sentence, with vehement opinions on both sides of the issue, along with the public outcry and publicity attending any disturbance involving death-sentenced inmates. It seems likely that the widespread publicity and criticism, plus the potential for danger concerning the security of these inmates, encourages corrections departments to, in the words of one corrections official, "severely restrict and control freedom of movement" for all inmates in that status.

A third factor in the lack of differential classification is the allocation of staff and resources in the face of continually expanding institutional populations. The need for expanded work oppor-

tunities for inmates, for example, has been an issue for several years, and corrections departments are under pressure to provide more opportunities for their total inmate population.

As noted earlier, consent agreements regarding classification have tended to require that the corrections system institute an objective classification system for all of its inmates. However, there does not appear to be a legal consensus regarding the classification guidelines for inmates under sentence of death.

Housing

Housing for death-sentenced inmates is closely tied to institutional security level and classification status. Of the 40 institutions surveyed, 13 (32.5 percent) are maximum security facilities, two (5 percent) are classified maximum/medium, and the remaining 25 (62.5 percent) contain all levels of security (maximum/medium/minimum). More than three-fourths (31 or 77.5 percent) report that they provide separate housing within the institution for their inmates with death sentences; eight institutions reported that they did not. Approximately two-thirds (27 institutions or 67.5 percent) report that these inmates are housed apart from inmates in segregation, and 31 institutions (77.5 percent) report that their death-sentenced inmates are housed separately from inmates in protective custody. In general, most death-sentenced inmates are being housed in a maximum security unit separate from the general population, and only 15 institutions report that they allow any contact with the general population.

Ninety percent of the institutions are housing their death-sentenced inmates in single cells, and 93 percent of the inmates surveyed reported that they live in a single cell. Two states (5 percent) reported that they are double celling, and one state reported using both single and double cells. One inmate in a women's institution reported that she lived in a dormitory-type housing unit.

Changes in the housing arrangements for their death-sentenced inmates were among the most frequent changes made by state departments of correction during the past few years. Half of the states reported changes in housing. These changes fell into four general categories: (1) expanding the existing areas of housing; (2) building new units; (3) moving of death-sentenced inmates from one area within the prison to another or moving from one prison to another; and (4) increasing security in the housing area.

The primary impetus behind the housing moves appears to be crowding—the growing number of inmates in this status as well as crowding in general. The increase in death-sentenced inmates was cited as the primary concern of the 40 wardens surveyed. Several states reported the movement of their death row units to new facilities, and several indicated that they have or will use additional prisons to house this growing number of inmates.

Responses to the survey indicate that four states, of necessity, handled the crowding problem in the following ways: (1) moving their death-sentenced inmates to an older, larger cell house in which some of these inmates were still double celled; (2) housing death-sentenced inmates in three different sections of their maximum security prison; (3) moving their death row unit several times within their main facility due to the increasing number; and (4) adding a second death row unit at a second facility.

Several wardens and commissioners commented specifically on the housing problems that have developed as result of the increase in number of death-sentenced inmates and number of inmates in general.

- "Increase in population levels of death-sentenced inmates has resulted in my institution having to house the condemned in overflow areas."
- "Twenty percent of the single cells are now occupied by death row inmates, displacing cell space available for management problem inmates."
- "... Overcrowding in maximum housing units ..."

Many administrators felt that death-sentenced inmates are not compatible with inmates who have been placed in administrative segregation. "Our administrative segregation inmates are much more violent than our death row inmates," reported one warden, who expressed concern that the increasing numbers of death-sentenced inmates would force the institution to mix them in with administrative segregation. "In general, death row inmates give less concern than the rest of the segregated populations. . . . they are quieter, do their own thing, and are concerned with legal activities on behalf of their sentence."

Security

With the increasing number of death-sentenced inmates, the higher probability of additional executions taking place, and the public's fear of and interest in this group of inmates, the security of death row becomes a serious concern for all staff. Security problems such as disturbances, assaults, deaths, and escapes were reviewed in Chapter 4. This section will address movement within the institution, transportation outside the institution, and isolation versus contact with others within the institution.

The state departments of correction indicated major changes since 1980 regarding the inmates under death sentences. Eighteen states indicated changes in housing—one of the four most frequent responses was that there had been increased security in the housing units. Fifteen states reported that they had changes in operations; many indicated an increase in security to make the inmate's out-of-cell time and movement more secure. In addition, several states had increased the degree of isolation of their death-sentenced inmates from the general population. One state that had allowed its death-sentenced inmates to be in the general population removed them all and placed them in a special administrative maximum custody unit. The wardens reported that 31 of their institutions placed inmates sentenced to death in separate housing. The vast majority of the wardens reported that they housed these inmates in single cells.

Fifty-eight percent of the staff felt that overall security had increased, and they reported increased segregation of the inmates, use of restraints, and restrictions on inmate movement as the principal new measures. The majority of staff indicated that they thought use of restraints and/or handcuffs when these inmates were out-of-cell was the most effective security measure; having a separate unit was listed almost as frequently.

Ninety-four percent of the inmates reported that they were escorted when they moved about in the institution. Sixty-nine percent reported that physical restraints were used when they were escorted inside the institution. The usual restraint was handcuffs; waistchains were reported by 30 percent, and 19 percent reported having leg irons on when they were escorted on the inside. Only 43 percent of the women reported that they had to wear restraints on the inside; the usual restraint was handcuffs.

Almost all of the women (13 of the 14 responding) indicated that they were handcuffed when they were transported outside the institution. The one remaining female responded that she did not know, as she had never left the institution.

Ninety-seven percent of all inmates under the death sentence indicated that they wore physical restraints when they were being transported outside the institution. A director who was formerly the warden of an institution housing death-sentenced inmates said, "Security is essential and cannot be overemphasized. The escape of a particularly notorious death row inmate negates even the best of security records. It would have disastrous political and personal consequences."

Staffing

Overall, correctional practitioners know that knowledgeable, highly skilled, motivated, and

professional correctional personnel are essential for fulfilling the purpose of corrections. Careful selection, orientation, supervision, training, and development of those correctional staff assigned to directly interact with inmates under sentence of death are critical for the successful management of death row units. A critical issue is the selection of the staff. Mature, responsible veteran staff officers are desirable for work with death-sentenced inmates.

Staffing Patterns

Major management issues concerning staff include the number and types of staff positions, selection, training, assignments, post and job descriptions, and regular staff evaluations by supervisory personnel. Additional issues include those special staff needs and concerns relating to working with inmates with sentences of death, e.g., stress, increased media and public interest, death and dying issues, and the inmates' increased legal activities. As indicated in Chapter 3, there are few legal precedents concerning staff who work with death-sentenced inmates.

In the ACA/NIJ survey, 17 wardens (42.5 percent) indicated that their institutional staffing policy for inmates sentenced to death was different from the staffing policy for the general population; only 11 of the 40 wardens said that staffing policy was in writing; and 29 or 73 percent indicated that they were satisfied with their current staffing policy for inmates under sentence of death. Four of the six wardens who suggested changes in the staffing policy indicated that there should be an increase in the number of staff to work with these inmates. One warden stated that he was initiating unit management as a policy, and another warden suggested that the staff working with death-sentenced inmates need more specialized training to deal with the demands of the position.

The survey indicated that the staff members working with death-sentenced inmates have worked an average of seven years in corrections. They have worked approximately six years at the institution where they currently are employed. The 244 staff members who indicated that they worked directly with the inmates sentenced to death estimated that they actually spent approximately 42 percent of their time with those inmates.

These staff indicated that 64 percent had been assigned to that position, and 20 percent indicated that they had requested to work with inmates under sentence of death. The remaining 15 percent indicated that they worked with death-sentenced inmates because of rotating positions. In general, staff indicated that they had been in their assignment an average of two-and-one-fourth years. When asked what their specific responsibilities were, the most frequent response was, "security, supervision, and control of the inmates."

In response to the question, "Since January 1, 1980, have any inmates with whom you've worked closely been executed?" 55 or 22 percent indicated "yes," and 192 or 76 percent indicated "no." Those responding "yes" indicated that they dealt with their personal feelings by reminding themselves that it was part of their job and acting professionally; others said simply, "It didn't bother me." The remaining staff answered, "with religion, friends, thinking of the victim's family"; one staff member answered, "with difficulty. . . . There was no one to share my feelings with." The following recommendation came from one institutional administrator: "The staff assigned to the death chamber should not be the same staff assigned to the death row unit."

Thirty-two percent of the staff indicated that they would like to see changes in the institution's current staffing policy for inmates sentenced to death, while 58 percent indicated that they did not want to see any changes. The majority of staff who responded that they would like to see changes believed that death-sentenced inmates should be housed in a special housing unit separated from the general population. They recommended that this unit be staffed by carefully screened, highly qualified, specially trained officers. The results of the staff survey indicated that the staff felt that personnel working with death-sentenced inmates should have a substantial amount of experience and possess mature, sound judgement. The staff also felt that these special housing units should be staffed with a sufficient number of staff on permanent assignment. One additional recommendation was that the staff working this unit be in a special career track that included a higher salary

than the salaries for work in other areas. One state reported that they pay \$60 a month special duty pay to those who work with death-sentenced inmates.

Training

The responses to questions concerning training revealed that, in general, staff who worked closely with inmates under sentence of death received little if any specialized training for their assignment beyond training in security procedures. The survey of the departments of correction indicated that only six states (16.7 percent) have statewide training for staff who work with these inmates. Fifty percent of the departments (15 states) indicated that staff training should be available for managing death-sentenced inmates.

Only 13 percent of the responding staff indicated that they had received specialized training concerning working with inmates sentenced to death. Those indicating "yes" (33 staff members) mentioned specialized training regarding "stress management" (listed most often); the "care, custody, and control of death row inmates"; "death, dying, and grieving"; "interpersonal communications"; "suicide prevention"; and "how to control hostile individuals." The staff that had received this training indicated the training time ranged from one to 80 hours, with the average number of training hours slightly less than 12. Six of the 33 staff indicated that they had had three special training classes, and 14 indicated that they had had two special training classes.

Those who had not received specialized training were asked what type of training would be most beneficial to them. The training most frequently recommended by staff involved psychology, communications, counseling, and advanced self-defense. The following specific topics were mentioned:

- Psychological training/how to deal with depression and mood swings
- Learning the behavior patterns of death-sentenced inmates/abnormal psychology
- Stress management
- Communication skills/counseling techniques
- Support groups/debriefing sessions for staff in the event an execution occurs/networking with other COs who work with death row/group discussions
- Periodic review and discussion of death row policies
- Advanced self-defense

Almost all of the staff who indicated that they had reacted in a professional manner after an execution had occurred indicated that they had received specialized training.

The wardens and departments of correction recommended similar training for staff in the management of death-sentenced inmates. Specifically, the most frequent type of training recommended by the state departments indicated that staff needed to be provided with additional skills in recognizing and dealing with the emotional problems experienced by death-sentenced inmates. This included providing staff with specialized counseling techniques and skills and with information concerning the psychology of dying. The departments of correction also indicated that there should be additional training for staff in stress management and the development of interpersonal communication skills. In addition, it was recommended that additional training be provided in the following areas:

- Policies, procedures, and state laws regarding the death sentence
- Constitutional and civil laws
- How to provide legal assistance to inmates
- The rights of death-sentenced inmates
- Suicide prevention among death-sentenced inmates

Two states indicated that there should be training in fire prevention with death-sentenced inmates.

In-cell/Out-of-cell Time

Historically, death-sentenced inmates have spent the majority of their time in their cells. This continues to be a current management practice in most of the institutions housing death-sentenced inmates. A review of programs and other activities afforded to these inmates indicates that time out-of-cell is limited.

A review of policies and procedures also indicates that different jurisdictions define out-of-cell time in different ways. In general, out-of-cell time means that inmates are physically out of their assigned cell and either in another location outside of the unit or involved in an activity outside of the cell but in the unit. In most institutions, out-of-cell time is defined as allowing the inmates to leave their cells for periods of time each day to allow access to a dayroom for television, recreation, and other activities. In some jurisdictions, out-of-cell time can include the inmate's assignments on work details, either as an individual or in a group; involvement in individual or group outdoor recreation; attending some program or activity outside the cell; having meals outside the cell (only 4 percent of inmates reported that they eat outside their cells); attending programs outside the cell; going to a work program; or meeting with a visitor.

One general theme emerging from court orders and consent decrees is that death-sentenced inmates are being allowed an increased amount of time outside of the cell. Management's concern is in developing policies and procedures that outline when inmates can leave their cell, what they can do, where, and with whom. Additional management concerns are whether the inmate must be escorted, must be handcuffed and/or shackled, or be allowed to associate with others when outside the cell.

Medical Services

A national correctional policy ratified by the American Correctional Association concerns health care for inmates. The policy states that "correctional facilities . . . must provide health services that are appropriate and that reflect contemporary standards for health care." One of the major tenets of this policy is that correctional facilities "provide continuous, comprehensive [health care] services commencing at admission, including effective and timely screening, assessment, and treatment . . ."

A review of the submitted policies and procedures concerning medical care indicates that most reflect the following: ". . . doctor and nurse availability should be provided on a 24-hour basis, with daily unit visitation by one of the two, seven days a week, for sick call and medical screening for appropriate treatment." Because of the concern of transporting and/or escorting these inmates, medical care is most likely provided to them in their cell or unit. A review of court orders and consent decrees clearly indicates that most of the suits concerning conditions of confinement include claims of inadequate medical treatment.

The majority of institutions reported that their medical procedures for death-sentenced inmates do not differ from those for general population inmates. Twelve wardens reported that their policies for death-sentenced inmates are different.

Among the inmates themselves, when asked how often they saw a doctor, dentist, medical assistant, or psychologist, a majority of the inmate responses fell into the category of "not on a regular basis, only when have a problem."

Overall, 36 percent of the death-sentenced inmates reported that they were currently taking

prescription drugs. Seventy-one percent of the female inmates and 30 percent of the male inmates reported taking prescription drugs.

Psychological, Psychiatric, and Counseling Services

The current practices concerning psychological and psychiatric services indicate that these services are available on identified need and by request. Most of the policies and procedures reviewed indicated that normally the inmates are reviewed periodically. Several institutions indicated this review is every 30 days. According to the inmates responding, 24 percent saw the psychologist when they had a problem; 22 percent said they never see the psychologist; and 6 percent indicated that they saw a psychologist once a month. Six of the 14 female inmates who responded indicated that they were seeing a psychologist regularly—once a week.

The study's literature review, site visits, review of recent court findings, and survey responses from the states, wardens, and staff all indicate concern about the psychological state of death-sentenced inmates. As discussed in Chapter 3, there is legal attention and controversy regarding inmates who may become mentally ill while in death-sentenced status. On June 4, 1986, the United States Supreme Court ruled that executing the insane violates the Constitution. This ruling (*Ford v. Wainwright*) directed the State of Florida to adopt a new procedure for determining if an inmate on death row is competent to be executed. This ruling raises questions as to how the states test the sanity of inmates under sentence of death and indicates that more than an administrative procedure is required for determining competence.

Also recurring throughout the responses was the need for additional counseling programs "providing staff with additional skills in recognizing and dealing with the emotional problems of inmates under sentence of death."

While the majority of death-sentenced inmates (65 percent) indicated that they have a counselor, 31 percent indicated that they did not. In terms of the frequency of seeing their counselors, 10 percent responded "never"; 4.5 percent responded "once a day"; 13.5 percent responded "once a week"; 11 percent responded "once a month"; and 29 percent responded "other."

Thirty percent of the wardens (12 institutions) indicated they had special programs for inmates with death sentences. These included counseling, religious, and recreational programs. Programs that wardens would like to see initiated included special religious counseling and recreational programs as well as Alcoholics Anonymous and Narcotics Anonymous counseling and stress/anger management. Special concerns related to psychological problems, stress, anxiety, and concerns about the inmate's family, and several respondents indicated there was a need for programming in these areas.

Religious Services and Activities

Along with education and recreation, religious services and activities were the type reported most frequently by the inmates as currently existing and most desired. The inmates reported that current practice for religious services and activities includes Bible study groups, religious services, and visits with chaplains. A large number of inmates indicated that they would like to have programs such as church services with different clergy, religious education, and additional Bible study. Many inmates stated they would like to attend religious services in the chapel; 2 percent reported that they were able to attend religious activities with the general population. Most religious services and/or activities take place in the inmate's individual cell or in an area that is isolated from the general population. The death-sentenced inmates reported Bible study as one of the four activities at which they spend the majority of their time.

The departments of correction indicated that since 1980, religious programs have increased.

Seventy percent of the wardens reported that there were special management policies and procedures for participation in religious activities by inmates sentenced to death. Of the 15 institutions that indicated these inmates are allowed to associate in some way with inmates in the general population, only four indicated that this association was allowed for religious services. The wardens also indicated that additional specialized religious programs should be initiated and that they are providing them for inmates with death sentences in 30 percent of the institutions.

Of the 47 percent of the staff who indicated that they have perceived changes in the characteristics of the inmates sentenced to death since January 1980, a number of them thought that the death-sentenced inmates are becoming more religious. The staff also indicated that they felt religious programming was especially beneficial for inmates with death sentences and indicated that more religious programs should be initiated.

Major procedural questions in this area relate to who provides these services to the inmates and where these services and programs can be held. Another management concern is whether religious activities can be allowed in groups in association with other death-sentenced inmates, other inmates in the general population, or individually.

Recreation

As mentioned earlier, the most frequently addressed issue in death row litigation concerns recreation. The outcome of this litigation has, for the most part, increased the amount of out-of-cell time for death-sentenced inmates.

Several guidelines seem to be emerging: (1) some level of recreation is ordered in each court case, (2) definitions of out-of-cell time seem critical, since some jurisdictions refer to all out-of-cell time as recreation while others separate outside exercise, indoor exercise, watching television, having meals out-of-cell, attending programs outside one's cell, going to a work program, etc., and (3) most court orders appear to require policy definitions for each of these, with time requirements for specified "recreation" ranging from approximately one to four hours per day.

Approximately 53 percent of states reported that they had instituted major changes regarding the management of death-sentenced inmates since 1980. A number of these changes involved more programming outside of the cell, including recreation, exercise, and dayroom privileges. As the administrator of one state institution stated, "Structured recreational activities tend to alleviate stress and help the inmate from a mental and physical standpoint, and by reducing inmate inactivity and anxiety, staff are benefitted too." Correctional experience acknowledges the desirable effects of recreation, but what can be offered is most often based on staff availability to carry out these desirable activities and programs.

All 26 of the institutions that have differing policies and procedures for death row versus the general prison population do so in the recreation area. These wardens report that additional recreation programs should be initiated, and they expressed a need for increased staff in the recreation and escorting areas. Five wardens indicated that inmates with sentences of death were allowed to associate with inmates in the general population during recreation time.

Wide variations exist from state to state regarding outdoor/indoor exercise; types of sports and equipment permissible; television privileges, programs, and hours of viewing; and types of board games, puzzles, cards, etc., that are allowed. Staff working directly with death-sentenced inmates estimated that the inmates typically spend approximately 2.4 hours recreating outside of their cell and an additional 2.4 hours working with hobbies. Many staff also wrote that sports and recreation, hobbies, crafts, etc., were especially good for death-sentenced inmates.

The inmates agreed: recreation was one of the top three programs that they would like to see initiated. Eighty-seven percent of death-sentenced inmates stated they have some recreation privileges: 57 percent of those participate in basketball; 31 percent, volleyball; 27 percent, weightlifting; 18 percent, handball; 5 percent, baseball; and 26 percent, other. Of the 32 percent

who are allowed to mix with the general population at some time, 10 percent of these do so for recreational purposes.

Food Service

Good food service is critical within any institutionalized population. It was standard policy in almost all of the institutions surveyed that inmates under sentence of death not eat in the central dining room. Only three institutions reported that they allow death-sentenced inmates to eat with the general population, and only nine of the inmates surveyed (4 percent) reported they did so. Eight in 10 (81 percent) reported that they ate their meals in their cells; 30 inmates (12.5 percent) said they ate outside their cell but not with the general population.

A ruling in Kentucky allowing inmates under sentence of death to eat both lunch and dinner in the institution's central dining room came from a court order. Even though the inmates are allowed to go to the central dining room, the general population inmates do not eat at the same time. Several of the inmates with sentences of death are allowed to work in the dining room's dish room. Arizona's policy in this area allows those inmates under sentence of death with lower classifications to be taken to the general population central dining room for three meals daily.

A major concern in the management of this inmate population is that the food that reaches these inmates in their housing area have a quality level consistent with the food served to the rest of the prison population. A concerted effort should be made to ensure that the food servings to death-sentenced inmates reflect the same temperature and servings in the institution's dining room, with similar choices and consideration for dietary restrictions.

In estimating the amount of time per day spent in dining, the staff and inmate calculations were very similar: The staff estimated that inmates spent 1.4 hours per day eating meals; the inmates themselves estimated that they spent 1.3 hours per day dining. Although several cases of litigation currently involve food service policies in connection with out-of-cell time, relatively few of the inmates surveyed mentioned food as one of their concerns.

Work/Industry/Vocational Training

A review of the survey data indicates that most death-sentenced inmates do not have an institutional job assignment, nor are they involved in working in industry, nor do they participate in vocational training programs. Although only 17 percent of inmates under sentence of death responded that they do work, a number of wardens indicated they would like to initiate a work program. One state has developed a special correctional industry program in which it employs death-sentenced inmates. The staff connected with this industries operation have indicated that they are pleased and find the inmates "far better workers than anticipated." The factory has been considered a successful operation.

Twenty-three wardens (57.5 percent) reported that the inmates sentenced to death have an opportunity to earn money in some way. Forty percent of these inmates do so through an institutional assignment; 17.5 percent by hobby/craft sales; 10 percent through other methods; and 2.5 percent (one) through a prison industry assignment. Rarely is mixing with the general population allowed during work programs. Nine percent of the inmates surveyed reported that they are paid for their work. About half indicated they earn less than \$10 per month, while the other half indicated they earn \$21 per month or more. In one institution, the inmates can earn \$3 a month for keeping their cells clean.

The staff surveyed estimated that the inmates typically spend almost two hours of their time per day in institutional work. The inmates themselves estimated they typically spend 1.1 hours

per day doing institutional work. The majority indicate that they work in industry (15), janitor/clean-up (12), and kitchen (four). Other reported jobs were schoolteacher (three), recreation worker, package clerk, yard detail, clerk, unit run-man, and special projects (two).

When asked why they did not have a job in the institution, the majority of the inmates who did not have a job (197 or 83 percent) indicated that the institution's policies did not allow them to work. Less than 3 percent of those responding indicated that they did not want to work, and work was one of the most frequently mentioned programs that inmates wished they had to counteract the boredom and restlessness commonly described. One inmate said, "Any program that has plenty of work is one I want." Another commented, "I feel we on death row should be able to work and earn our money. I also feel we should be able to go into the general population instead of sitting around wasting away."

When they were questioned about their work on the outside, the majority of death-sentenced inmates reported to have worked in the area of construction/laborer/trades. Mentioned frequently were truckdriving, mechanical, and restaurant/cook employment. Only nine reported they had not been employed before incarceration. Individual responses included the following positions: recreation director, apprentice, funeral director, accountant, television cameraman, physician/surgeon, banquet manager, assistant engineer, owner of a manufacturing plant, mental health counselor, drilling rig supervisor, police officer, helicopter mechanic, and prostitute.

Education

Education is another area of programming in which there is considerable variation as to the extent of programming available and how the program is carried out, e.g., in the cell, in the unit, or with other inmates in the general population. Some administrators have expressed the opinion that some types of programming, such as education and vocational training, are not appropriate for death-sentenced inmates. This is an area that will most likely be litigated if there is not movement toward greater consistency.

More than half of the departments of correction reported changes since 1980 in programming areas. A review of these changes indicated that education had been one of the most frequent areas of change: an increase in both the number of educational programs offered and the number of inmates involved. Of the programs currently available for death-sentenced inmates, education was one that the correctional staff indicated was especially good. When asked what special programs the staff would recommend for the inmates, staff indicated that they would initiate educational programs.

Twenty-three wardens indicated they had special policies covering education for death-sentenced inmates. Only a small percentage of inmates sentenced to death are allowed to mix with the general population for educational purposes. The survey responses indicated only four institutions allow inmates sentenced to death to be involved in educational programs with general population inmates.

As to the educational history of the death-sentenced inmates, 33 percent reported that they had not graduated from high school. Another 33 percent had graduated from high school, and 33 percent said they had had some college education.

In describing typical daily activities, the mean number of hours devoted to schoolwork, as described by the inmates themselves, was 0.4 percent of an hour. Staff estimated the average amount of time that the inmates spent on schoolwork was about one hour per day, with a range among the inmates of from zero to five hours.

Education was one of the three most frequently desired programs by inmates. This interest ranged from elementary education through high school equivalency tests (GED) and correspondence courses to college-level classes.

Library

As with education for death-sentenced inmates, the library policy is, in most institutions, under special management arrangement for these individuals. The reviewed policies indicate that, in general, the inmates do not go to the central library. Rather, the library services are brought either to them or to their unit. According to the inmate survey, only 6 percent of the inmates with death sentences were allowed to go to the library with the general population inmates.

As indicated by both the staff and inmate surveys, death-sentenced inmates are interested in reading and library time. The inmates also reported that they spend approximately an hour-and-a-half a day reading. Eighty-four percent of responding inmates reported that they had books and magazines in their cells. Several of the inmates noted the restrictions regarding the number of books, magazines, and other literature that they could keep in their cells. They also expressed a desire to have access to the prison library.

Commissary and Personal Services

In the majority of institutions, commissary and personal services for death-sentenced inmates are provided under management policies that differ from those for the general population. Here again, of the 26 states that indicated differing policies and procedures for death row, 17 (65.4 percent) have special policies or procedures for use of the commissary. Association with other inmates is rarely permitted. State policies vary regarding visits to the commissary by the death-sentenced inmates or whether commissary requests are brought into the unit. Variation also occurs regarding how much money may be spent at a given time or over a period of time. Based on review of policies and procedures from the various institutions, it was found that states' approaches to personal services and hygiene also vary.

To better provide guidance to staff who work with death-sentenced inmates, the commissary use and the personal services areas need specified procedures and timetables. In the case of shower schedules, the procedures may include possible search processes at shower time. In the case of the commissary, not only do the times need to be spelled out, but also the items that are permissible and any spending limits.

It was noted that regulations regarding hair length and style are subject to considerable difference among the states. The reason for what may appear as an excess of attention to these areas may well be a combination of the felt need for elevated security for this group and the extra legal and public scrutiny given them.

Review of the litigation concerning death-sentenced inmates indicates that there are no specific guidelines in these personal services areas, but a need has been demonstrated for very specific written policies addressing property rights, restrictions of property related to hygiene (razor use, etc.), and even codes for hair length and style.

Hobbies/Use of "Free Time"

As most inmates under the sentence of death spend a considerable amount of time in their cells and/or in the housing unit, hobbies and other individualized activities are significant. Staff reported that hobby/crafts programs are especially good for these inmates and indicated additional programs should be initiated. Staff working directly with inmates under sentence of death estimated that they spent 2.4 hours per day with hobbies; inmates themselves estimated spending 1.6 hours per day involved with this activity.

The inmates' four most frequently reported hobbies involve some type of arts and crafts, draw-

ing/artwork, exercise, and Bible study. A number of inmates reported they have been crocheting. Forty percent reported they keep hobby work in their cells.

Of the policies and procedures reviewed governing this area, most are very specific and outline what materials and tools are allowed, how to obtain materials and tools at the expense of the inmate, and how the products are disposed of—either kept in the cell, sold, or sent out of the institution.

Legal Programs and Services

Legal programs and services can be broken into several categories, all of which have some legal precedent giving guidelines for unit administration. The four major components are (1) law library; (2) access to counsel; (3) legal visits; and (4) legal correspondence.

In the first category, that of the law library, major variations will depend on the unit size. In the case of small units, the library may only be available through access to the central library. Since the overall policy may totally restrict general population integration, these situations most often result in a written procedure for channelling book requests through a "runner" who obtains the books for the inmate to read in his or her cell. Some jurisdictions set aside a time for death-sentenced inmates to use the central library without the presence of the general population. In those cases where the unit is large, the most common administrative procedure is to have a separate library, with either an inner unit inmate runner or separate times set up for individual inmates to use the library.

Access to counsel has been covered in several legal cases. The guiding principle appears to be that these inmates have a right to legal access with privacy, providing sufficient notice has been given. Decisions about the extent of privacy and security should be spelled out in written policy, preferably policy that differentiates custody needs for different levels within the unit (i.e., special precautions for those in protective custody or detention). These same guidelines hold true for legal visits and, with minor variations, legal correspondence.

Visiting Policies

Visitation rights for death-sentenced inmates has been an issue of concern and litigation in several institutions. Undoubtedly, it will become even more of an issue with an increasing death-sentenced population and overall concern for increased security. The ACA/NIJ survey of wardens revealed that 11 states did not have written policies and procedures of any kind concerning the management of inmates sentenced to death. Visitation policies and procedures regarding such issues as who is permitted to visit, how many at one time, how often, etc., need to be established, if not already written. Policies need to be clearly written and known to both staff and inmates. Litigation is often aimed at policies and procedures that establish separate rules for visits by family or friends versus visits by an attorney or doctor, or visitation details.

Of the 27 states reporting that they have policies and procedures for death-sentenced inmates, 22 included specific visitation policies. Of the policies and procedures examined, it was noted that the policies often stipulated a location within the death row secure environment where visits could take place. In addition, policies often stated who may visit and for what duration.

Seventeen states allow contact visits for death-sentenced inmates. Most indicated that inmates are allowed visits from anyone on the approved list, including friends. One state reported that contact visits were allowed for family members only. Length and frequency of visits ranged from one to six hours a week with several states indicating a flexible policy. Four states indicated that visiting privileges could not be denied for disciplinary reasons. None of the states with contact visits reported problems with them.

Some states choose to adapt visitation guidelines for death-sentenced inmates from the visitation policy for regular inmates. As exemplified through one state's policy, "Death row inmates shall be afforded visiting privileges which are, as much as is practical in keeping with security needs, equal to those available to persons in the general population." Another state also supports a visitation policy comparable to that of the general population, with an

emphasis on supporting the family unit. Space for family and attorney visits on the unit should be provided for death row inmates. This, of course, is dependent on the availability of space on the unit. However, extended and/or family visits should be allowed even if space is unavailable on the unit, with the emphasis behind such action being to continue, establish, or generate family ties between the death row inmates and their family members.

The visitation policy of this state further indicates the need for implementing a visitation policy on a trial basis to ensure the best interests of both inmates and the institution.

Most of the 16 (52.8 percent) states that indicated that there had been changes in death row programming reported that these changes involved allowing more access and involvement in more programs, including visitation. Six staff members surveyed stated that visitation programs at their institutions were especially good.

Several states have chosen a restrictive visitation policy. One state requires strip searches of inmates after visits. A distinction between types of visitors has been established in another state facility. The categories include regular, special, legal, institutional, official, and media.

Forty-eight (20 percent) of all inmates and seven (50 percent) female inmates indicated that their visitation privileges were the same as inmates not under sentence of death. All inmates and female inmates had approximately equal visitors allowed at one time (3.67—all and four—female), length of visiting periods (71 percent of all and 72 percent of females indicated lengths other than those listed), and physical contact with visitors (50 percent—all and 57 percent—female). The responses for who visited and how often varied for all inmates versus female inmates, with all indicating that they were most often visited by a parent or sister one to two times a month, while female inmates were most often visited by their children or friends one to two times a month.

Mail

Eighteen states sent copies of their policies and procedures to ACA, and most included information on mail provisions.

No state indicated that an approved mail list was required or that there were any restrictions on the number of letters sent or received by death-sentenced inmates. There was also no note of outgoing mail being read. Five states cited that their mail policies for death row were the same as those of the general population for both privileged and nonprivileged mail.

It was general policy to open and inspect all mail for contraband, but with the requirement that legal mail be opened in the presence of the inmate. Most states indicated that mail may be withheld for disciplinary reasons with the exception of privileged (legal, governmental) mail. As death-sentenced inmate movement is severely restricted, most mail is hand-delivered, and inmates must depend on the staff for pickup. The pickup procedures varied, with staff carrying a locked box to the cell, relying on correctional officers to deposit mail, and slipping letters under the cell door (one state noted the possibility for mail destruction). Several mail policies indicated that indigent inmates may submit a request for postage, usually for privileged correspondence.

Eight of the 40 wardens surveyed indicated that mail policies for death-sentenced inmates differed from mail policies for the general population. Six wardens indicated that the policies were the same for both.

There were differences between the total inmate response and those of the 14 female inmates.

The total inmate response indicated that parents and friends are the people most often corresponded with, and the highest percentage for frequency was one to two times a month. The female inmates corresponded most with friends and children and wrote once a week. Both the total inmates and the 14 female inmates wrote least often to boyfriends/girlfriends and spouses.

The only comments made by inmates regarding mail concerned mail restriction and mail opening.

Telephone

Telephone privileges for death-sentenced inmates vary greatly from state to state as to whether inmates have liberal or limited access to telephones, frequency of calls, amount of time allowed, and access to legal or emergency calls.

The following are the average parameters for death-sentenced inmate telephone privileges:

1. One telephone call is permitted every two weeks.
2. Calls are not to exceed ten minutes.
3. Calls are to be monitored by a staff member.
4. Calls must be made collect.
5. Persons to be called must be previously approved.
6. Calls must be made during a specified time on a specified day.
7. No threats, abusive language, or demands for money are allowed, with disciplinary actions used as deterrents.
8. Staff will log calls into a daily log.
9. Telephone privileges can be suspended, if necessary, to maintain order and security.

A small number of states allowed inmates liberal telephone privileges: up to three calls per day, no time limits given; frequent calls to attorney(s) without using personal call allotments; and areas equipped with coinless pay telephones for use by eligible inmates. Monitoring by a staff member was not indicated at these institutions.

Several states allowed a more limited access to telephones. The most restrictive policies permitted only inmates with a clear disciplinary record for the previous six months, with no previous call during that period, one call to a family member not exceeding three minutes. This call would be monitored by a staff member. Inmates were also reminded that telephone calls are a privilege granted only to inmates who display good behavior and conform to institutional rules and regulations. One state with a restrictive telephone policy for death-sentenced inmates regarding the frequency and length of calls was recently required by court mandate to provide access to telephones that is more in line with the general inmate population.

Generally, legal telephone calls need to be verified and must be collect. Most institutions do not monitor legal calls. Only one institution indicated that legal calls count against personal call allotments. Legal calls usually needed to be requested in advance and approved.

Death watch telephone policies also vary between institutions. The most restrictive allows no phone calls once the inmate has been moved into the execution chamber holding cell, while the most liberal institution permitted one 15-minute phone call per day.

A total of 79 percent of all inmates and 86 percent of female inmates on death row talk over the telephone with people outside the institution at least once a month. The remaining 14 percent of female inmates indicated that they never talk over the telephone. The total population indicated that 22 percent never call and 28 percent call at other times.

Of the female inmates, five inmates or 36 percent talked twice a day, whereas 5 percent of the total population talked that often. Ten out of 14 female inmates are incarcerated in their home states and most have children. This could account for their more frequent telephone calls.

The only comment made by inmates regarding telephone privileges is that phone call restrictions should be lessened.

Discipline

Death-sentenced inmates, like inmates in other populations, will violate rules, and disciplinary measures will have to be taken against them. Death-sentenced inmates should be held accountable with the same disciplinary rules as other inmates. If the violations are the result of mass participation, restrictions should affect the unit or group as a whole. However, if only certain individuals on the unit have violated the rules, they should be disciplined on an individual basis.

Lesser disciplinary infractions by death-sentenced inmates may be adequately handled on the housing unit by restricting the offender to his or her cell for a specified period of time or by suspending privileges for a specified time. As mentioned in Chapter 4, relatively few serious disturbances were reported by institutions and states. Staff members and administrators generally agreed that the "most dangerous" time in dealing with a death-sentenced inmate was when all appeals had been exhausted.

Inmate Grievance Mechanisms

Grievance mechanisms for inmates under sentence of death do not appear to be different from the processes used by inmates in the general population. Death-sentenced inmates should have equal access to and use of the institution's established inmate grievance procedures. These procedures will give them a process to seek resolutions to their perceived problems or complaints without reprisal as well as a mechanism through which they can ventilate their concerns without breaching the code of expected inmate conduct.

A well-functioning grievance mechanism can also, in the words of one warden, "provide a positive channel through which inmates can alert the administration of problem areas that may or may not need addressing." This warden also noted that staff should be adequately familiar with and trained in the grievance procedures and their fundamental purpose so that the process is not viewed by staff as a form of harassment by the inmates.

Interestingly, the grievance clerk at one institution at which the grievance committee serves the general population and the death-sentenced inmates is himself under sentence of death. Death-sentenced inmates can contact the clerk from the housing unit by using the same phone system that is used to contact the legal office. This grievance clerk, in a special report, stated that the

death row inmates have a very high regard for the Grievance Procedures as they exist. . . . The grievances we file are for the most part meritorious . . . plus we usually give the Committee/Warden several different requested results to select from, instead of just one 'action requested.' . . . We also wish to publicly thank this Administration and Warden ____ for giving us the opportunity to show we can be trusted in general population jobs.

A Relevant ACA Standard

Although death-sentenced inmates are not generally considered to be in administrative segregation or protective custody status, a correctional standard of the American Correctional Association and the Commission on Accreditation for Corrections concerning programs and services may give guidance to the programming and services to be provided to death-sentenced inmates.

ACA STANDARD 2-4233 (Revised August 1987) Written policy and procedure provide that

inmates in administrative segregation and protective custody have access to programs and services that include, but are not limited to, the following: educational services, commissary services, library services, social services, counseling services, religious guidance, and recreational programs.

DISCUSSION: It is recognized that services and programs cannot be identical to those provided to the general population; however, there should be no major differences that would endanger life, health, or safety. Inmates in administrative segregation and protective custody should have the opportunity to receive treatment from professionals, such as social workers, psychologists, counselors, and psychiatrists.

Summary and Conclusions

In general, the ACA/NIJ study has confirmed the assumption that inmates under sentence of death present a unique set of correctional management concerns.

1. *Increasing Time on Death Row*—The existence of death rows where inmates remain for extremely long periods of time due to the uncertainty of the outcome of their sentence is a relatively new phenomenon in American corrections. Before 1976, the average time on death row status before execution was 13 months. As of March 31, 1986, ten years later, inmates under sentence of death had been in that status an average of five years, with the outcome of their sentence still uncertain.
2. *Numbers of Death-sentenced Inmates Vary*—The size of death-sentenced populations varies considerably from jurisdiction to jurisdiction and from institution to institution. Eight jurisdictions have less than 10 death-sentenced inmates, five have 10-29, 15 have 30-99, and six have over 100. Managing a death-sentenced population of more than 100 inmates presents different management problems and options than the management of one to 10 persons in that status.
3. *Isolate From or Mix With General Population*—A critical management issue is whether to isolate or segregate inmates with death sentences from the general prison populations or, through a classification process, identify those inmates who could be managed in the general prison population. In most institutions, the housing and programming for inmates with death sentences are dictated by the sentence itself; that is, once a person receives a death sentence, he or she is subject to the particular housing, programs, privileges, physical restraints, etc., accorded all inmates in that institution with a death sentence.
Administrators and staff also point out the great individual differences among inmates under sentence of death in terms of security risk, behavioral problems, and other factors.
4. *Public and Political Controversy*—Another general issue is that the death penalty, the extended legal appeals process, and the possibility or reality of execution continue to stimulate public and political controversy as well as media attention, creating additional difficulties for administrators and staff in terms of the time and energy devoted to the "public relations" aspect of managing these offenders.
5. *Staffing*—The growing numbers of inmates in this status in some institutions make adequate staffing levels a critical concern.
The professional responsibilities and stresses of working closely with people who are under sentence of death for long periods of time differ significantly from those in other correctional

staff assignments. In general, staff who work closely with inmates under sentence of death receive no specialized training for this assignment beyond training in security procedures. The desirability of special training in such areas as stress management, legal issues, and counseling was voiced by administrators, staff, and inmates.

6. *Programming*—In general, inmates under sentence of death have limited access to programs. The need for constructive activities (e.g., physical recreation, work, and religious programs) both to pass the time and relieve tension was cited by staff and inmates alike.

Opportunities to communicate with family and friends, either by telephone or in person, assume great importance for inmates in this status. Visitation policies and procedures vary widely among institutions.

Adequate access by inmates under sentences of death to legal assistance (law library and attorneys) and counseling (religious and psychological) are seen as major concerns by inmates as well as many of the staff and administrators who work with them.

A review of recent legal cases concerning the conditions of confinement for death-sentenced inmates indicates that these cases promote greater access to programming and more out-of-cell time. The trend in management practices in many institutions, however, seems to point toward greater security measures and reduction of program time.

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