U.S. Department of Justice
Bureau of Justice Statistics

Bureau of Justice Statistics Bulletin

Death-row Prisoners 1981

The death-row population in the United States swelled to 838 persons by yearend 1981—150 more than at yearend 1980. It was by far the largest group awaiting execution since a national count began in 1953. The cause of this huge accumulation of condemned prisoners was a 3 to 1 ratio of persons receiving the death penalty to those removed from death row during 1981. Among the latter was an Indiana prisoner who was executed in March 1981, the fourth person to suffer the death penalty since an unofficial 10-year moratorium on executions ended in 1977.

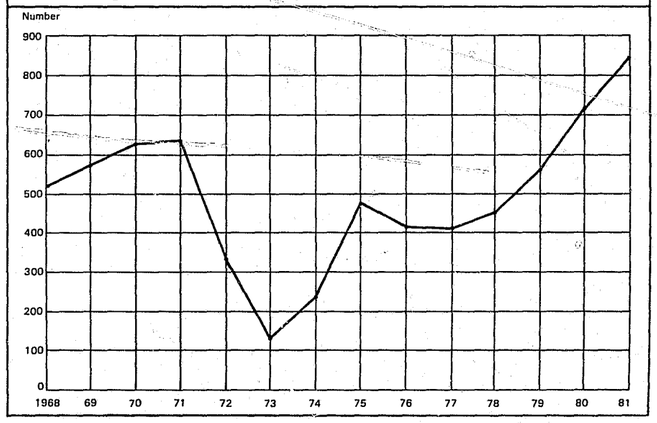
A decade of decisions

The relatively small group, 74 in all, relieved of the death sentence during 1981 reflected increasingly successful efforts of State legislatures to adapt capital punishment laws to guidelines established by the U.S. Supreme Court during the 1970's. During the previous decade, opponents of the death penalty had stepped up their use of litigation to block the execution of death-row prisoners, actions that largely were responsible for the moratorium that began in 1967.

Then, in the 1972 watershed case of Furman vs. Georgia, the U.S. Supreme Court ruled that the death penalty had often been used in an arbitrary and capricious manner, thereby violating Eighth Amendment guarantees against cruel and unusual punishment. All of the 600 persons sentenced under pre-Furman laws and awaiting death were eventually removed from death row. But the accumulation began again as many States moved quickly to revise their capital punishment statutes to meet objections raised by the Court.

The new laws generally were of two types. Some States sought to eliminate any chance of unfair treatment by making the death penalty mandatory for specified crimes, contingent solely on a finding of guilt. A second type went beyond the

Number of persons on death row, yearend 1968-81



July 1982

The United States will witness a spate of executions beginning in 1983-84 without parallel in this Nation since the depression era. Whatever views one may hold on the use of capital punishment, that is the reality behind the numbers presented here—both those dealing with prisoners on death row and the number of State capital punishment statutes that have passed Federal or State constitutional muster.

The number of persons on death row has been rising steadily for 5 years; only four persons were executed during this period, three of whom chose not to exhaust their avenues of appeal. A similar buildup on death row occurred during the sixties, but these persons were all removed from the threat of capital punishment as a result of the Supreme Court decision in Furman vs. Georgia.

Now again time is running out for a large proportion of individuals awaiting capital punishment. States have drafted and redrafted capital punishment measures and the Supreme Court is overturning fewer and fewer on Eighth Amendment or other constitutional grounds. Further, many death-row residents are exhausting their appeal process under these statutes. Thus the situation is ripe for the Nation to witness executions at a rate approaching the more than three per week that prevailed during the 1930's. We will then have a grim arena in which to conduct our national debate on the efficacy of the death penalty.

Benjamin H. Renshaw III
Acting Director

Status of death penalty statutes and prisoners under sentence of death, by region and State, 1981

Region and State	Death penalty in force as of 12/31/81	Prisoners under sentence of death 12/31/80	Changes during 1981: Received under death sentence	Changes during 1981: Removed from death row	Changes during 1981: Executed	Prisoners under sentence of death 12/31/81
United States	...	688	228	77[1]	1	838
Male	...	679	225	76	1	827
Female	...	9	3	1	0	11
Federal[2]	Yes	0	0	0	0	0
State	...	688	228	77	1	838
Northeast	...	7	5	1	0	11
Maine	No	0	0	0	0	0
New Hampshire	Yes	0	0	0	0	0
Vermont	Yes	0	0	0	0	0
Massachusetts	No	0	0	0	0	0
Rhode Island	No	0	0	0	0	0
Connecticut	Yes	0	0	0	0	0
New York	Yes	0	0	0	0	0
New Jersey	No	0	0	0	0	0
Pennsylvania	Yes	7	5	1	0	11
North Central	...	54	25	1	1	77
Ohio[3]	Yes	0	0	0	0	0
Indiana	Yes	6	5	0	1	10
Illinois	Yes	31	11	1	0	41
Michigan	No	0	0	0	0	0
Wisconsin	No	0	0	0	0	0
Minnesota	No	0	0	0	0	0
Iowa	No	0	0	0	0	0
Missouri	Yes	7	7	0	0	14
North Dakota	No	0	0	0	0	0
South Dakota	Yes	0	0	0	0	0
Nebraska	Yes	10	2	0	0	12
Kansas	No	0	0	0	0	0
South	...	522	141	58	0	605
Delaware	Yes	3	1	0	0	4
Maryland	Yes	2	7	1	0	8
District of Columbia	No	0	0	0	0	0
Virginia	Yes	13	5	1	0	17
West Virginia	No	0	0	0	0	0
North Carolina	Yes	15	5	3	0	17
South Carolina	Yes	14	8	1	0	21
Georgia	Yes	87	5	1	0	91
Florida	Yes	155	24	18	0	161
Kentucky	Yes	5	4	0	0	9
Tennessee	Yes	15	8	2	0	21
Alabama	Yes	2	14	0	0	16
Mississippi	Yes	14	13	0	0	27
Arkansas	Yes	15	12	4	0	23
Louisiana	Yes	12	0	2	0	10
Oklahoma	Yes	30	9	3	0	36
Texas	Yes	140	26	22	0	144
West	...	105	57	17	0	145
Montana	Yes	3	0	0	0	3
Idaho	Yes	1	2	1	0	2
Wyoming	Yes	1	0	1	0	0
Colorado	Yes	0	1	0	0	1
New Mexico	Yes	1	2	0	0	3
Arizona	Yes	33	8	3	0	38
Utah	Yes	4	0	1	0	3
Nevada	Yes	10	4	2	0	12
Washington[3]	Yes	5	0	5	0	0
Oregon[3]	No	3	0	3	0	0
California	Yes	44	40	1	0	83
Alaska	No	0	0	0	0	0
Hawaii	No	0	0	0	0	0

NOTE: Some of the figures for yearend 1980 are revised from those shown in Capital Punishment, 1980 (final report), December 1981. These figures exclude 46 inmates (42 in Alabama, and 1 each in Arizona, Georgia, Illinois, and Louisiana) relieved of the death sentence before 1981 and the inclusion of 20 inmates (8 in Georgia, 2 in Florida, 1 in Texas, 2 in Mississippi, 6 in Louisiana, and 1 in Virginia) who, although sentenced to death before 1981, were either reported late to the NPS program or were not the in custody of relevant correctional authorities by December 31, 1981.

[1]Includes 1 Florida prisoner who committed suicide and 2 Texas prisoners who died of natural causes.

[2]Excludes 4 prisoners held under Armed Forces jurisdiction.

[3]The death penalty was in effect for only part of the year in Ohio, Oregon, and Washington. See text.

issue of guilt to the circumstances of the crime.

In 1976, the U.S. Supreme Court ruled on five cases that became the benchmark for subsequent capital punishment laws. In two of these--Woodson vs. North Carolina and Roberts vs. Louisiana--the Court struck down statutes that imposed mandatory death sentences without due consideration of other factors. In the other three cases, however--Gregg vs. Georgia, Proffitt vs. Florida, and Jurek vs. Texas--the Court upheld death penalty laws that allowed the judge or jury, subject to stipulated guidelines, to weigh both aggravating and mitigating circumstances in passing sentence. Based on these rulings, most States have adopted laws that carefully define the elements of a capital crime and provide for guided discretion in determining the sentence.

Since 1976, the U.S. Supreme Court has scrutinized the details of many cases involving capital punishment, but has chosen relatively few for formal review. The most significant of these decisions was Coker vs. Georgia (1977) in which the Court held that rape of an adult woman was not grave enough to warrant the death penalty. As a result of this decision, virtually all capital penalties now in effect are for specified homicides or for specified felonies that result in death; those for other offenses have not had their constitutionality tested. Currently, all death-row inmates are convicted of homicide, except for two Florida inmates convicted of "sexual battery of a female child age 11 or under."

Current developments

By yearend 1981, at least four cases were awaiting a review by the High Court, while an important decision on the legal rights of capital prisoners was rendered in May of that year. In Estelle vs. Smith, the Court ruled that psychiatric testimony derived from the pretrial competency hearing of a Texas prisoner could not be used by the prosecution during the penalty phase of the proceedings, since in that hearing the defendant had not been warned of his right to remain silent and to retain counsel. The decision, which touches on a judicial practice common in Texas, could eventually affect as many as half of that State's death-row prisoners.

The supreme courts of individual States also handed down important rulings during 1981. Two such rulings resulted in the removal of all prisoners from death row in two States.

Oregon's supreme court, in Oregon vs. Quinn, ruled that the State's death penalty law was unconstitutional because it placed the responsibility for deciding a defendant's mental state on the judge rather than the jury, in effect depriving the accused of the right to a jury trial. As a result of this ruling, the death sentences of all three of Oregon's death-row inmates were vacated.

Washington's capital punishment law also was struck down by its supreme court. In State vs. Frampton, the court found that the defendant, who pleaded not guilty, could be sentenced to death, whereas defendants who pleaded guilty could not because the law did not provide for a sentencing jury in such cases. Frampton's death sentence was changed to life imprisonment, and the court vacated the death sentences of the State's remaining four death-row inmates, whose cases also were on appeal. A month later, in May 1981, the Washington legislature replaced the unconstitutional law with one designed to overcome the defect.

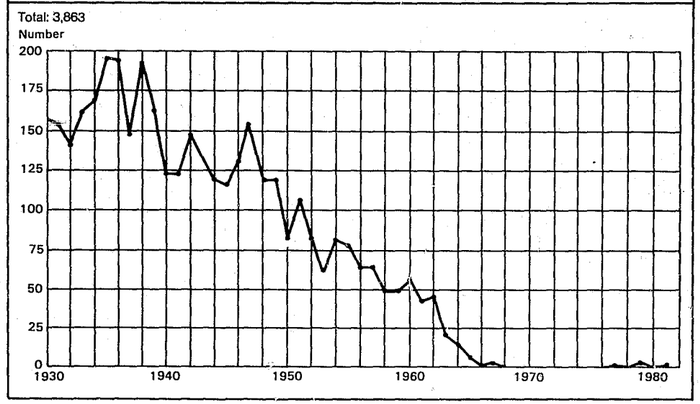
In other legislative actions taken during 1981, one State created a new capital offense, one State reenacted its death penalty law, and four revised existing ones. Oklahoma, which already had the death penalty for murder, passed a law making rape of a minor or mental incompetent a capital offense. Ohio passed a new capital punishment law to replace one ruled unconstitutional by the U.S. Supreme Court in 1978 (Lockett vs. Ohio). The law had put undue limitations on the circumstances that the sentencing authority could consider in its deliberation. Alabama, in response to the 1980 decision rendered by its supreme court in Beck vs. Alabama, also revised its death penalty law. The new law allows the jury to convict a defendant of lesser crimes rather than, as provided by the original law, only the capital offense. It also establishes a dual trial procedure, one for determining guilt and one for sentencing, as well as a mandatory appellate review. Connecticut, Texas, and Virginia made minor changes in their death penalty laws before the end of the year.

In 1981 for the first time, States reported whether their death penalty laws provided for automatic appeal from death sentences. With the exception of Arkansas, New York, and the Federal system, the statutes of all jurisdictions call for an automatic appeal, even if the defendant wished to waive the right. Some State laws provide for review of the sentence only; others require a review of both conviction and sentence.

Death sentences in 1981

With Ohio added to the list of States that permit capital punishment and Oregon removed from it, the total number of States (36) that had the death penalty in effect at yearend 1981 was the same as a year earlier. Of the 28 States with prisoners awaiting execution at yearend 1981, 25 had handed down the death penalty at least once during the year.

Number of persons executed, by year, 1930-81



Florida had more persons (161) awaiting execution than any other State; next were Texas (144) and Georgia (91). These three States held close to half of all prisoners on death row in the Nation.

Among States that contributed to the net increase of 150 prisoners, California's growth (from 44 to 83) was the largest. Next were Alabama (14) and Mississippi (13). No other State added more than 10, and five States (Louisiana, Oregon, Utah, Washington, and Wyoming) decreased the number of persons they had awaiting execution.

Blacks accounted for 41% of the Nation's death-row population--about the same proportion as a year earlier. Members of races other than white or black accounted for 1%.

Eleven women were under sentence of death at yearend 1981, two more than the year before. Maryland, Georgia, and Alabama each sentenced one woman during the year; one woman was relieved of the death penalty in Florida. All 11 women on death row were in southern States--4 in Georgia, 2 in Texas, and 1 each in Maryland, North Carolina, Kentucky, Alabama, and Oklahoma. Eight were white; three were black.

The number of Hispanics sentenced to die rose to 47--21% more than in 1980. Fourteen received new sentences; only six were relieved of the death sentence. Texas held the most Hispanics (16); next were California (12), Florida and Arizona (5 each), Illinois (4), and Virginia, Arkansas, New Mexico, Utah, and Nevada (1 each).

The number of new death-row inmates (228) represented a 16% increase over the number sentenced in 1980 and was one of the highest figures reported for the decade. California imposed the most new sentences (40) followed by Texas (26) and Florida (24). None of the other 22 States that handed down sentences during the year added more than 14.

For every three persons added to death row during 1981, only one was relieved of the death sentence. Texas granted the most dispositions (22), followed by Florida (18). All death-row inmates in Oregon and Washington were relieved of their death sentences as a result of State supreme court decisions. No other State relieved more than four prisoners of the death penalty.

The national total of 78 removals from death row included 1 execution in Indiana, 1 suicide in Florida, and 2 natural deaths in Texas. Since 1971, 29 prisoners have died while on death row, most from natural causes. Four died by execution, and at least five committed suicide.

Methodological note

Data on persons under sentence of death are collected annually for the

Bureau of Justice Statistics Bulletins are prepared principally by the staff of the bureau. Carol B. Kalish, chief of policy analysis, edits the bulletins. Marilyn Marbrook, head of the publications unit, administers bulletin publication, assisted by Scott G. Alexander and Julie A. Ferguson. Susan Schechter-Ryan of the Bureau of the Census is the principal author of this bulletin.

NCJ-83191, July 1982

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

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

- Persons are not added to the NPS death-row counts at the time the court hands down sentence, but at the time the condemned person is received by the appropriate correctional authority.
- Inmates sentenced to death under statutory provisions later found unconstitutional are removed from the death-row count on the date of the relevant court finding rather than on the dates the finding is applied to individual cases.
- NPS death-row counts are always as of the last day of the calendar year and will therefore differ from estimates made for more recent periods.

Further reading

A final report on the death-row population in 1981 will be published in late 1982. To obtain the final 1980 report, Capital Punishment 1980, NCJ-78600, or to be added to the bulletin mailing list, write to the National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850. Other National Prisoner Statistics Bulletins include—

- Veterans in Prison, October 1981, NCJ-79232;
- Prisons and Prisoners, January 1982, NCJ-80697;
- Prisoners in 1981, May 1982, NCJ-82262.

U.S. Department of Justice
Bureau of Justice Statistics

Official Business
Penalty for Private Use $300

Postage and Fees Paid
U.S. Department of Justice
Jus 436

THIRD CLASS
BULK RATE

Washington, D.C. 20531

Bulletin

END