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CAPITAL PUNISHMENT

IN MARYLAND

1978 -- 1987

A REPORT BY THE MARYLAND PUBLIC DEFENDER
ON THE ADMINISTRATION OF CAPITAL PUNISHMENT

NCJRS

JUN 23 1988

ACQUISITIONS



Prepared by
Maryland Office of the Public Defender
Death Penalty Defense Unit
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WILLIAM DONALD SCHAEFER
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December 17, 1987

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Honorable William Donald Schaefer
Governor of Maryland
State House
Annapolis, MD 21404

Dear Governor Schaefer:

Upon the convening of the tenth General Assembly of Maryland, since that which enacted the Maryland Death Penalty Law, Sections 412-413, (Article 27 (Annotated Code of Maryland)), it seems appropriate to provide a comprehensive report on the administration of capital justice in Maryland over the past decade.

As you are well aware, the burden of death penalty defense has fallen almost exclusively upon this Agency. We have allowed no compromise of our statutory mandate (Article 27A, Public Defender Statute) to "assure effective assistance and continuity of counsel" to the indigent defendant whom the State seeks to execute. The fiscal impact of this commitment upon the Agency and the Maryland tax payers has been made abundantly clear in prior reports of the office.

As we approach the second decade of death penalty litigation, it is difficult to accept the realization that attendant costs will spiral yet further in the "built in" years of collateral appeals through the State and Federal Courts. Beyond the vital issue of costs, however, is the extent to which implementation of the Maryland program of capital punishment has lessened the overall effectiveness of the criminal justice system while patently failing miserably to achieve the objectives touted by the framers ten years ago.

I trust that by illuminating these concerns, this report may serve the true administration of criminal justice.

Respectfully,

A handwritten signature in cursive script, reading "Alan H. Murrell".

ALAN H. MURRELL
Public Defender

AHM/jmg
enclosure

Capital Punishment in Maryland

1978 - 1987

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A Decade of Capital Punishment

In Maryland: An Overview

In the mid-1970's, Maryland wanted a death penalty. The State had not executed anyone since Nathaniel Lipscomb had died in the Penitentiary's gas chamber in 1961, and the capital punishment moratorium which followed that execution was viewed as symptomatic of a prevailing criminal justice permissiveness which itself was largely responsible for the foremost domestic issue of the day -- the spiraling index of violent crime. Capital punishment was seen by citizens and legislators alike as the missing necessary element of the criminal justice system. Speaking for the Administration, the Attorney General touted the death penalty as "an absolute necessity."¹ The death penalty would deter. It would be cost effective. With the Supreme Court's "guided discretion" principles engrafted upon it, the process would fairly assure that the worst cases would be punished with death. It would be the State's way of getting tough.

What the death penalty proponents were seeking was a return to the simple system which had prevailed from the very earliest days of the Province through 1961. Sentencing was the province of judges, who, after a short hearing following the defendant's conviction, pronounced a sentence. From 1936 through 1961 these simple proceedings resulted in the executions of 57 men -- roughly two per year.² The sentences were carried out without delay; during those 26 years, the elapsed time from sentence to execution

¹ Testimony of Hon. Francis Burch, reported in The Sun, February 5, 1977.

² Report of the Committee on Capital Punishment to the Legislative Council of Maryland 44 (1962). Thirty-six men were executed for rape, 57 for murder.

averaged 220 days. Rarely was any appeal pursued; less than a third of the seventy-nine men executed from 1923-1961 noted any sort of appeal at all; only three challenged their sentences beyond the Court of Appeals of Maryland.³ Not one had the audacity to suggest that there was anything unconstitutional or unfair about their sentences or about the system of capital punishment.

When the United States Supreme Court finally cleared the way for capital punishment in 1976,⁴ the General Assembly began in earnest its work toward enactment of a constitutional death penalty law. Disagreements over its form⁵ and the concerns of the Attorney General about its constitutionality delayed passage ultimately until 1978. In the debates of February, 1978, the conflicting evidence on deterrence established little one way or the other. The perception, indeed, was that the legislature was responding to the issue "on a largely emotional basis."⁶

"The fight was along traditional lines -- was capital punishment, inherently, a wise or moral policy? Little or no serious thought

³ W. Bowers, Legal Homicide 446-48 (1984).

⁴ In the wake of *Furman v. Georgia*, 408 U.S. 238 (1972), the General Assembly enacted a "mandatory" death penalty law which was stricken as unconstitutional in *Blackwell v. State*, 278 Md. 466 (1976). The death penalty statutes of Georgia and Florida were upheld in *Gregg v. Georgia*, 428 U.S. 153 (1976) and *Proffitt v. Florida*, 438 U.S. 242 (1976).

⁵ The Administration's 1977 bills, H.B. 785 and S.B.374, were similar to the present statute except that they were much more narrowly drawn. Those bills were defeated in the Senate Judicial Proceedings Committee, and the General Assembly instead enacted Senate Bill 106 which, by reason of several of its unorthodox provisions, was vetoed by Governor Mandel. 62 Op. Atty. Gen. 29 (1977).

⁶ Hon. Alan M. Wilner, "A Capital Myth: Koko at Bay" (Address to the Rule Day Club, March 9, 1987; hereinafter cited "Wilner, 'Capital Myth'"). Judge Wilner's insightful retrospective on capital punishment in Maryland is included as an appendix to this report.

was given to the practical difficulties in actually attempting to impose and carry out the penalty."⁷

The bill passed the Senate 26-18 and the House of Delegates 91-46, and was signed by the Governor. The act was to be effective on July 1, 1978.

In the decade since, over 3500 murder arrests have been effected in Maryland. State's Attorneys have formally declared their intention to seek the death penalty in 190 cases. Ninety actual penalty phases⁸ have been conducted. Forty sentences of death have been imposed. The Court of Appeals Maryland has heard argument and rendered opinions in 39 matters⁹ related to the death penalty. At the ten-year mark in Maryland's post-Furman experience with the death penalty, seventeen men are under sentence of death. No federal court has yet ruled on the constitutionality of the Maryland capital punishment system.¹⁰

⁷ Id., 19-20.

⁸ The term "penalty phase" refers to the separate trial on punishment which the Maryland procedure requires in the event a Defendant is convicted of first-degree murder and the prosecutor has timely notified Defendant of its intention to seek the penalty of death.

⁹ Some of those matters were not direct appellate reviews of death sentences but interlocutory appeals from double jeopardy and other issues. See, e.g. Booth v. State, 301 Md. 1, 481 A.2d 505 (1984); Evans and Grandison v. State, 301 Md. 45, 481 A.2d 1135 (1984); Harris v. State, 299 Md. 511, 474 A.2d 980 (1984) and 303 Md. 685, 496 A.2d 1074 (1985); Huffington v. State, 302 Md. 184, 486 A.2d 200 (1985); Reid v. State, 305 Md. 9, 501 A.2d 436 (1985).

¹⁰ In its one ruling in a Maryland case, the Supreme Court touched upon a severable feature of the capital punishment system, the admissibility of victim impact evidence. Booth v. Maryland, 482 U.S. ___, 96 L.Ed.2d 440 (1987). More recently, the Supreme Court agreed to review the affirmance in Mills v. State, 310 Md. 33, 527 A.2d 3 (1987) to consider the constitutionality of a feature of Maryland's law foreclosing the sentencing jury's consideration of all mitigating circumstances which are not found unanimously to exist. Other fundamental institutional issues relating to the burden of proof under the Maryland statute will not be addressed in Mills v. Maryland.

The responsibility for defending persons facing the death penalty has fallen almost exclusively upon the Maryland Office of the Public Defender.¹¹ From the outset the Public Defender has accepted the wisdom of the Supreme Court's pronouncement that "the penalty of death is qualitatively different"¹² as imposing a qualitatively higher standard for the effective assistance of counsel.

"There is little question that a Death Penalty case is utterly different from any other criminal proceedings and from a defense and taxpayers standpoint is prohibitively expensive, demanding tremendous amounts of trial lawyer's time and supportive assistance time, if the proceedings are to be within constitutional requirements more than just a formality or an assembly line into the gas chamber.

* * *

[T]he employment of expert witnesses ... is routinely used ... where the defendant has the means to retain private counsel and pay for the supportive experts needed to effectively present a defense. To do less for an indigent defendant establishes an abhorrent double standard in the Criminal Justice System.¹³

Standards were adopted requiring appointment of two counsel in capital cases, setting minimum experience or training requirements for death penalty defense counsel, and mandating independent mental health screening in virtually all cases. In order to centralize the delivery of capital litigation support, the Public Defender created a separate Death Penalty Defense Unit.

¹¹ Of the 98 death penalty proceedings actually commenced, (i.e. all trials commenced as death penalty cases -- eight of which resulted in acquittal of first degree murder -- and all resentencings) only seventeen were handled by privately retained defense counsel. The rest have been Public Defender cases. Fees generally charged by private counsel to defend a capital case appear to be in the \$30,000 to \$40,000 range.

¹² Woodson v. North Carolina, 428 U.S. 280, 305, 49 L.Ed. 2d 944, 96 S.Ct. 2978 (1976).

¹³ Alan H. Murrell, "Operational Overview - Impact Death Penalty Cases, 1982 Fiscal Year," Maryland Office of the Public Defender (1982).

With this commitment to quality capital case defense came its cost in both dollars and the more intangible resources. In 1982 the Public Defender demonstrated that 90% of the expenditures in excess of the budget was directly attributable to the defense of capital cases. In every annual report since then the Public Defender has highlighted the death penalty's drain upon the Agency's resources. By 1986, earliest projections on the cost of post conviction death litigation indicated that the Agency's death expenditures would soon increase even more dramatically.¹⁴ A cost analysis included within this report predicts that the Agency will devote in excess of \$7.5 million to death penalty defense in the coming decade.

One unexpected casualty of Maryland's capital punishment scheme has been the Court of Appeals itself, which has been called upon to comprehend and interpret the new and confounding national common law of capital punishment which has emerged. Whereas the statute directs that the automatic direct appeal from a sentence of death should be "expedited,"¹⁵ experience demonstrates that the death appeals are simply not subject to expedition; they have in fact had a crushing effect upon the Court's ability to deal with its certiorari caseload. The cases have been far more complex than ordinary cases, involving as many as fifty discrete legal issues, in contrast to the one or two issues generally present in cases before the Court. Briefs regularly exceed one hundred pages, and record extracts

¹⁴ "The Maryland Public Defender's Death Penalty Costs: An Interim Report," October, 1986.

¹⁵ See Art. 27, sec. 414 (g) and Laws of Maryland, Acts of 1978, Chapter 3 (Preamble). Section 414(e) requires the Court to address three questions relative to arbitrariness or disproportionality of the death sentence under scrutiny, "in addition to the consideration of any errors properly before the Court on appeal...."

extend for thousands of pages. It is no reflection on the Court's efficiency that in several instances more than two years have elapsed between argument and opinion.¹⁶

The Court has been stridently criticized for the extent to which it has granted relief in capital cases; the criticism is unwarranted and misplaced. The Court's ordering of new trials or new sentencings in each of the first ten cases it heard was not unusual; most states had similar experiences with their early cases, and the very nature and complexity of the cases will continue to guarantee a high reversal rate.¹⁷ The tenth reversal, in 1983, nevertheless triggered a fire-storm of criticism. Pickets marched on Calvert Street in Baltimore demanding the judges' impeachment; a billboard was erected on Howard Street denouncing the Court as acting contrary to the will of the citizens. Prosecutors publicly joined in the clamor.¹⁸

Since that tenth reversal in 1983, the Court of Appeals has upheld the death penalty in seventeen of the twenty-two cases it has reviewed. It has never reduced a sentence to life imprisonment. Its affirmances have

¹⁶ Art. IV, sec. 15 of the Maryland Constitution, requiring that the Court of Appeals issue opinions within three months of argument has been held to be directory rather than mandatory. *McCall's Ferry Co. v. Price*, 108 Md. 96 (1908).

¹⁷ Sixty percent of all death sentences imposed nationally from 1973 to 1980 were overturned by state or federal appeal courts. Greenberg, "Capital Punishment as a System," 91 Yale L. J. 908 (1982). Thirty-six percent of all such sentences imposed between 1977 and 1984 have been reversed, and the majority of the remaining cases are still pending on appeal. U.S. Dept. of Justice, "Capital Punishment 1984." In Florida, the state with the largest death row, the highest state court reversed forty-five of the first 270 cases it reviewed. Report of the Florida Capital Punishment Project (Sept. 1984).

¹⁸ See, e.g. D. Levitz, "Maryland's Death Penalty Law," ("The law has been repealed, not by the people but by four judges of the Court of Appeals.") The Sun, June 25, 1983.

themselves been controversial. One was reversed by the United States Supreme Court, another is scheduled to be reviewed by that Court,¹⁹ and several of the others have drawn the criticism of individual justices of the Supreme Court²⁰ and by the members of the Court of Appeals itself.

In a larger sense it is not merely the Court of Appeals of Maryland but the very concept of appellate review which has come in for unwarranted criticism. The perception is that the system is rife with new "loopholes" that capital defendants use in bad faith. How else to explain the difference from the "old days," when there were few appeals and little delay?

The answer is simple: capital defendants in the post-Furman era are given counsel. The last execution in Maryland took place two years before the Supreme Court's decision in Gideon v. Wainwright,²¹ and the extensions of counsel which have ensued in that quarter century -- including the Maryland Public Defender statute²² -- have simply transformed existing rights of appeal from hypothetical to actual. There are essentially no new rights of appeal available;²³ appeals to the Court of Appeals have always

¹⁹ See footnote 10.

²⁰ See, e.g. Huffington v. Maryland, 106 S.Ct. 3315 (1986) (opinion by Marshall, J., dissenting from the denial of certiorari); Stebbing v. Maryland, 496 U.S. 900 (1984) (opinion by Marshall, J., dissenting from the denial of certiorari); Thomas v. Maryland, 105 S.Ct. 1856 (1985) (opinion by Marshall, J., dissenting from the denial of certiorari); and White v. Maryland, 470 U.S. 1062 (1985) (opinion by Marshall, J., dissenting from the denial of certiorari).

²¹ 372 U.S. 335 (1963).

²² Maryland Code (1957, 1976 Repl. Vol.) Art. 27A.

²³ In Maryland, a right of direct appeal exists to the Court of Appeals of Maryland. Pursuant to Art. 27, sec. 414, this appeal automatically follows imposition of the sentence of death. From an adverse

been allowed, as have state and federal habeas corpus challenges. The only difference is that counsel is available to assure their assertion, without regard to the wealth or poverty of the client.

Ten years' experience allows a fair assessment of death sentencing patterns, and the results are troubling. Few seriously believe that all of the seventeen men on death row represent the decade's worst of the worst. Chapters in this Report show with some positiveness that two overriding factors in whether one will be sentenced to death are (1) the particular policies of individual State's Attorneys, and (2) the race of the victim. While the courts have not yet perceived a constitutional significance to the available evidence of such patterns,²⁴ suggesting that such concerns are

ruling in that forum lies the right to petition the United States Supreme Court for writ of certiorari. The next step is to file a petition under the Maryland Postconviction Procedure Act, Art. 27, sec. 645A, which triggers the right to a plenary hearing in the Circuit Court where the conviction was returned. Review of an adverse in the postconviction court is by the Court of Appeals. Supreme Court certiorari review may then be sought. Federal review then commences with the filing of a petition for writ of habeas corpus in the United States District Court. Review of an adverse ruling there is by the U.S. Court of Appeals. Upon denial of relief by a panel of that Court, a petition for en banc review may be filed. At that point certiorari review by the United States Supreme Court may once again be sought. Executive clemency is a viable issue at any time after judgment. The only judicial remedy which is of truly recent vintage is the right under Art. 27, sec. 75A to petition for a declaration of incompetency to be executed, which, if denied, is potentially reviewable by the Court of Appeals of Maryland.

²⁴ Calhoun v. State, 297 Md. 568, 468 A.2d 45, cert. denied 466 U.S. 993 (1983) (on the basis of 1982 data, no unconstitutionally cognizable disparity in prosecutorial policies on seeking the death penalty); McCleskey v. Kemp, 481 U.S. _____, 95 L.Ed.2d 262 (1987) (statistical evidence demonstrating disparity in imposition of death penalty due to race of victim held insufficient to show denial of equal protection or violation of Eighth Amendment).

best addressed by legislative bodies,²⁵ the likelihood that the patterns will continue will, in the coming decade, surely test the expressed resolve of the courts --and society -- to insist on a modicum of even-handedness and fairness in selecting which offenders will be executed.

In one of his opinions on the death penalty in 1977, Attorney General Burch hypothesized a situation where the very uncertainty and protraction of death litigation "may well effectively diminish or postpone the imposition and carrying out of the death sentence to a point where the sharp comments of Mr. Justice White ... in Furman v. Georgia, 408 U.S. 238, 311-12 (1972) could come back to haunt us:

[The death penalty could so seldom be imposed that it would cease to be a credible deterrent or measurably to contribute to any other end of punishment in the criminal justice system. ... [W]hen imposition of the penalty reaches a certain degree of infrequency, it would be doubtful that any existing general need for retribution would be measurably satisfied. Nor could it be said with confidence that society's need for specific deterrence justifies death for so few when for so many in like circumstances life imprisonment or shorter prison terms are judged sufficient, or that community values are measurably reinforced by authorizing a penalty so rarely invoked." [62 Op. Atty. Gen. 120, 150 (1977).]

As Maryland commences its second post-Furman decade there are some who wonder aloud whether the Attorney General's hypothetical has been realized-- whether, indeed the death penalty is worth the candle.²⁶ In any event it is clear that the death penalty which Maryland revived nearly ten years ago

²⁵ "... McCleskey's arguments are best presented to the legislative bodies. * * * Legislatures are ... better qualified to weigh and 'evaluate the results of statistical studies in terms of their own local conditions and with a flexibility of approach that is not available to the courts.'" McCleskey, 95 L.Ed.2d at 269.

²⁶ See, e.g. Wilner: Capital Myth, supra, note 6; Hon. Robert C. Murphy, "State of the Judiciary Message," Annual Report of the Maryland Judiciary 1986-1987 3, 6-7 (1987); Hon. Vincent J. Femia, "Legal View," The Prince George's Journal, November 18, 1987.

is not entirely what it was expected to be. From the perspective of experience it is safe to predict that the coming decade of capital punishment litigation may see some resolution of the lingering federal questions, a bench and bar which is somewhat more accustomed to the intricacies of the law, and a handful of people executed. More clearly foreseeable, however, is that those aspects of the process which have figured most prominently in the last ten years -- the costs and burdens, the impossibility of "expediting" cases, the inexorable infrequency of imposition -- will continue to characterize this slow and unsure process.

The Public Defender's

Death Penalty Defense Dollars

Since the introduction of death penalty litigation after Furman v. Georgia 408 U.S. 238 (1972), concerns about the cost of such legislation have surfaced in this State¹ and elsewhere.² The experience of the Maryland Public Defender has indicated that the concerns are justified, but that the question usually posed - what it costs "to try a death penalty case" - is too simplistic and misses the mark. The cost of defending the seventeen now under sentence of death is not the cost of the death penalty, for the Agency has provided death penalty defense services in well more than 200 cases where the death penalty has loomed. In a recent discussion of the death penalty costs issue, Judge Wilner observed, "[T]here are many trapdoors along the way that will cause parts of the process to be repeated, sometimes more than once ... [e.g.] the first 8 cases to reach the Court of Appeals,

¹ Committee to Study the Death Penalty in Maryland, "The Cost and Hours Associated with Processing a Sample of First Degree Murder Cases for Which the Death Penalty was Sought in Maryland Between July 1979 and March 1984." (1985); Report of the Chairmen of the House Appropriations Committee and Senate Budget and Taxation Committee, April 11, 1983, p.10; "The Maryland Public Defender's Death Penalty Costs: An Interim Report (Oct. 1986); Murrell, "Operational Overview, Office of the Public Defender: Impact of Death Penalty Cases, 1982 Fiscal Year" (1982); Annual Reports of the Public Defender Eleven through Fifteen (1982-86).

² Comment, "The Cost of Taking a Life: Dollars and Sense of the Death Penalty," 18 U.C. Davis L.Rev. 1221 (1985); Nakell, "The Cost of the Death Penalty," 14 Crim. Law Bull. No. 1 (1978); Amsterdam, "Capital Punishment" in H. Bedau, *The Death Penalty in America* 354 (1982); New York Defender's Association, Capital Losses: The Price of the Death Penalty for New York State (1982); Brief of *Amicus Curiae*, Commonwealth v. Colon-Cruz, Supreme Judicial Court for the Commonwealth of Massachusetts. See also Furman v. Georgia, *supra*, at 358 (opinion by Marshall, J.) ("When all is said and done, there can be no doubt that it costs more to execute a man than to keep him in prison for life.")

beginning with Tichnell³ in 1980, the Court vacated the conviction or sentence in every one."⁴ Prior analyses by this Agency have undertaken to identify and quantify the various costs. The simple fact is, however, that there is no prototype death penalty case, and every effort to quantify costs by reference to the disparity in costs between prototype noncapital and capital cases has failed.

The true dollar cost of the death penalty -- what it costs to maintain a system under which offenders are executed -- is really a disarmingly simple calculus. The dollars spent over a particular period of time which would not have been spent had there been no death penalty, divided by the number of offenders executed over that period, is the true indicator of the cost of putting a person into the gas chamber.

The problem, of course, is to project those two critical numbers, for executions have not commenced, and the Agency's expenditures to date have been for litigation at the first two stages -- trial and direct appeal; it has had no experience with the budgetary demands of litigating at trial and direct appeal and in state post conviction proceedings (and the appeal from those) and at federal habeas proceedings (and the appeal from those).

An appropriate point of departure, however, is that the Public Defender's death penalty costs for FY 1987 was \$583,159.70, not including the staff time of the Appellate Division or the staff time of the attorneys in the Public Defender districts or of the time devoted by staff from other Public Defender divisions. The figure includes the cost of the Death

³ 287 Md. 695, 415 A.2d 830 (1980).

⁴ Wilner, "A Capital Myth."

Penalty Defense Unit and its institutional projects, all panel attorney fees, all expert fees, transcripts, and the like -- costs, in other words, which would not be spent were there no death penalty. The cost of the staff hours contributed by the Appellate and Mental Health Divisions and District staff hours which would not have been incurred but for the death penalty is conservatively estimated for FY 1987 to be \$90,000. A fair estimate, therefore, is that in FY 1987 the Public Defender's death costs exceeded \$675,000.

As observed, in the coming year the Public Defender will begin to incur the costs of State postconviction and federal habeas corpus proceedings. The available literature indicates that the cost at each of those two levels (including the cost of appeal from trial-level rulings) is roughly equivalent to the trial-sentencing-direct appeal stage.⁵ Again conservatively estimating the effect of litigating at all levels at once, it is clear that the Public Defender's annual death penalty costs will not likely be less than \$750,000 per year. Over the next ten years, the Agency will spend \$7.5 million which it would not spend were there no death penalty.⁶

More speculative, perhaps, is the prediction of how many executions that sum will purchase. Drawing certain assumptions from available sentencing trends, however, the Public Defender estimates that in the decade 1988 - 1997 not more than ten executions are likely to be conducted.

⁵ American Bar Association, Postconviction Death Penalty Representation Project, "Time and Expense Analysis In Post-Conviction Death Penalty Cases (February 1987).

⁶ This figure assumes no increase in the rate payable to panel attorneys or to agency staff.

Accepting that figure, one can estimate the cost to the Maryland Office of the Public Defender of putting an individual into the gas chamber at \$750,000.⁷

⁷ That cost is exclusive, of course, of costs incurred by the prosecution and by the judiciary, for which the Agency has no information.

Death Sentencing Patterns In Maryland

1978 - 1987

I. Introduction

The expressed intention and expectation of the framers of Maryland's death sentencing law was that the penalty should be imposed in an evenhanded manner. The provisions were crafted to assure that "discretion [would] be suitably directed and limited so as to minimize the risk of wholly arbitrary and capricious action."¹ The bill enacted in 1978 was in specific response to the Attorney General's expressed concerns that should death penalty practice vary among the various jurisdictions throughout the State, such "uneven application of the death penalty statute ... will hardly be conducive to the kind of fair and evenhanded administration of a capital punishment law which the Supreme Court has set forth as the constitutional objective which must be pursued by a valid statutory scheme."²

In connection with its representation of capital clients in the Court of Appeals on whether the particular sentence of death was "proportional,"³ the Maryland Office of the Public Defender undertook to collect and assimilate detailed data on Maryland murder cases since July 1, 1978, the effective date of the statute. This data offers a comprehensive assessment of how the Maryland death statute has operated in fact.

¹ Thomas J. Peddicord, Jr., Memorandum to the General Assembly, "Capital Punishment - Senate Bill 374 and House Bill 604" 3 (December 14, 1977).

² 62 Op. Atty. Gen. 120, 147 (1977).

³ Maryland Code (1957, 1982 Repl. Vol.) Art. 27, sec. 414(e)(4) requires the Court to consider whether "the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant."

II. Methodology

In 1984 the Death Penalty Defense Unit of the Maryland Office of the Public Defender began collecting data on Maryland murder cases arising since 1978. The objectives were (1) to identify every murder committed after July 1, 1978, where a first-degree murder charge was made and a conviction was returned on some count of criminal homicide; (2) to obtain sufficient information on each such case to determine whether, based upon the facts, the death penalty could have been sought; (3) to obtain sufficient information on those cases where the death penalty could have been sought to provide a basis for comparison with cases where the death penalty was imposed, in order to provide meaningful "proportionality review."⁴

A substantially comprehensive method of achieving the first objective -- securing a complete list of murder cases -- was available from computer lists generated by the Maryland Criminal Records Central Repository, which provided the Public Defender with cumulative, alphabetically arranged listings of defendants convicted on homicide counts of charging documents which alleged first-degree murder. In practice, the Central Repository lists have proven to be more of a backup than an original source for such information; the murder case list has proven to be more immediately compilable from Agency and court records, and other sources. Each Public Defender District is directed to provide to the Death Penalty Defense Unit

⁴ This project was commenced on the direction of the Public Defender in response to the holding in *Tichnell v. State*, 297 Md. 432, 466, 468 A.2d 1 (1983) entitling capital appellants to "present[] argument, with relevant facts, that designated non-capital murder cases are similar to the case then under scrutiny and should be taken into account in the exercise of our proportionality review function." Concurring judges specifically identified "the resources of the State Office of Public Defender" as the appropriate source for such an inventory of cases. *Id.* at 481-82 (Eldridge, J. concurring).

regular reports identifying first-degree murder indictments returned in that District. Court records, which in metropolitan jurisdictions are computerized, are equally sufficient to assure the comprehensiveness of the murder case list.

The next step in the process is to determine whether the murder indictment under scrutiny is "qualified."⁵ The effort here was helped by the objectivity of the Maryland statute, and by the Death Penalty Unit's immediate access to appellate transcripts and briefs, all appellate opinions (reported and unreported) on criminal matters, to statements of facts set forth in presentence investigation reports, guilty plea submissions, and the like.⁶ Once judgment is final and sufficient information is available, a five-page questionnaire is completed on each case in order to determine whether the case would qualify for the death penalty, and if it is determined that a death sentence would have been a possible sentence in the case, a 26-page questionnaire on the case is completed which records all available details of the circumstances of the offense, the character and background of the offender, data on the victim or victims, and information on the state and quality of the evidence. A file on each case is maintained

⁵ Throughout this report, the terms "qualified" or "death qualified" with respect to a case indicates that, based upon the reliably established facts, one of the ten statutory aggravating circumstances set forth in Maryland Code (1957, 1982 Repl. Vol.) Art. 27, sec. 413(d) was present, and that the death penalty could have been sought. The term is applied irrespective of other factors which might counsel against actually seeking or imposing the death penalty.

⁶ In cases where the death penalty is not sought, substantial reliance is often placed on the record on appeal, and such cases, therefore, are not generally entered into the databank until affirmance on appeal. In cases where capital proceedings are held, however, trial judges are required by Maryland Rule 4-to file comprehensive reports which generally provide enough information to allow capital cases to enter the bank within a few months of imposition of sentence.

containing the questionnaire and all source materials.⁷ For purposes of facilitating access to the data, the information is stored in a dBASE III+ relational database.

In these respects, the Maryland Public Defender Proportionality Database resembles the prototype system endorsed by the Proportionality Review Project of the National Center for State Courts in 1984.⁸ In fact the Maryland system is modeled on that of the NCSC, which generously shared its expertise with the Maryland Office of the Public Defender. In December of 1984, the Institute for Social Analysis, on a grant from the National Institute of Justice, provided a preliminary assessment of a number of proportionality review systems planned or operational in a number of the States, and concluded that the Maryland Public Defender's system was valid in its concept and planned implementation.⁹

III. Death Sentencing Patterns and Practices

A. General Data

As of mid-December, 1987, the Public Defender's survey included 1461 murder cases¹⁰, of which 415, on their facts, qualified for the death

⁷ Originally, copies of the questionnaire were sent to the prosecutors who tried the particular cases for their review, but this practice was discontinued when the prosecutors, through the Maryland State's Attorney's Association, declined to become involved.

⁸ See generally Van Duizend, "Comparative Proportionality Review in Death Sentence Cases: What? How? Why?" 8 State Court Journal, No. 3, p9 (1984).

⁹ J. Roehl and R. Cook, "Evaluation of Proportionality Review Procedures of Death Penalty Cases in State Appellate Courts," Final Draft Report Submitted by Institute for Social Analysis to National Institute of Justice (Dec. 1984).

¹⁰ There were, of course, many more murder arrests in the period. The data indicate, however, that over one-third of such arrests are dismissed or result in acquittals of criminal homicide.

penalty. Maryland prosecutors have filed formal notices of intention to seek the death penalty in 190 cases.¹¹ Ninety actual penalty phases¹² have been conducted, fourteen of which were capital resentencings which followed reversal by the Court of Appeals of Maryland. Forty sentences of death have been imposed; as a result of resentencings ordered on appeal, seven defendants account for seventeen of those death sentences. Six defendants originally sentenced to death eventually received life sentences through normal judicial processes. One other person's death sentence was commuted by the Governor to life without possibility of parole.

One immediately apparent feature is the extent to which plea negotiation has figured in the death sentencing process. Sixty-one defendants entered pleas of guilty after the death penalty notice had been filed, and in all but one instance those pleas were in return for withdrawal of the death penalty notice. Forty-two others pleaded guilty to first degree murder in return for the prosecutor's promise not to file a death notice in the first instance.¹³

Table 1 provides a breakdown by aggravating circumstance of all of the

¹¹ This number includes, in addition to the 142 cases which appear on the Case Roster at Appendix A, cases (1) where death notices were filed but which resulted in acquittal or the equivalent; (2) where notice was withdrawn under circumstances demonstrating the defendant was not the first-degree principal; and (3) judgment has not been imposed.

¹² The term, "penalty phase" refers to sentencing proceedings conducted in accordance with Maryland Code (1957, 1982 Repl. Vol.) Art. 27, sec. 413. Appendix B to this Report is a comprehensive list of penalty phases conducted.

¹³ This fairly common form of negotiation generally entails informal notice by the prosecutor to defense counsel that a death penalty notice will be filed unless the defense can proffer substantial mitigation and is willing to enter a plea of guilty to first-degree murder. There are, obviously, variations on that theme.

415 death-eligible cases. As it indicates, felony murder accounts for 76% of all aggravating circumstances alleged by prosecutors and 80% of all aggravating circumstances found. Robbery itself has been a feature in 72%

Table 1
Distribution of Death Penalty Cases
By Aggravating Circumstance

AGGRAVATING CIRCUMSTANCE	DEATH ELIGIBLE	NOTICES FILED	PROCEED. HELD	UNDER SENTENCE OF DEATH
Murder of Law Enforcement Officer.	9	8	6	3
Murder While Confined in Prison	13	8	2	1
Murder During Escape	5	5	5	5
Murder During Kidnapping	34	26	14	2
Murder of Abducted Child	0	0	0	0
Killer in Contract Murder	11	2	2	1
Employer in Contract Murder	13	4	2	1
Murder While Under Sentence of Life Imprisonment or Death	2	2	0	0
Multiple Murder	45	17	7	3
Robbery Murder	299	90	48	11
Arson Murder	21	4	2	1
Murder During Rape or Sexual Offense	45	30	19	4

of all death-eligible prosecutions¹⁴. Certain of the aggravating circumstances, such as the killing of a police officer or murder during

¹⁴ Multiple aggravating circumstances have been present in 83 death-eligible cases.

escape,¹⁵ have occurred infrequently (relative to other aggravating circumstances), but not surprisingly have resulted in death filings in virtually every instance. Some aggravating circumstances have occurred very infrequently; in fact there have been no cases involving the murder of a child abducted.

While the death-row population is too small to support any demographic or other statistical conclusions, several features bear observation. Racially, five are caucasian and twelve are black. The victims of all but one Defendant were white. Two defendants were acquitted of premeditated murder but convicted on a felony-murder theory. Eleven of the seventeen committed their crimes in Baltimore County; neither Baltimore City nor any other county has more than one inmate on death row. Five were under age 21 at the time of their crimes, and two were under 18. Five have no prior record for a crime of violence, and two have no prior criminal record whatever.

B. Evidence of arbitrary application of the death penalty

One of the Furman¹⁶ Court's chief concerns was the apparent arbitrariness with which the death penalty was seemingly imposed. The procedural improvements contemplated by the 1976 Supreme Court cases were intended in part to remove arbitrary influences from the process. Appellate review procedures -- including those provided by Maryland Code (1957, 1982 Repl. Vol.) Art. 27, sec. 414(e) -- have been deemed to represent ultimate assurances that arbitrariness will not infect the process.

¹⁵ All of the "escape" cases involved the murder of police officers. There were no murders in the context of a prison escape.

¹⁶ Furman v. Georgia, 408 U.S. 238 (1972)

As the term is used in this report, an "arbitrary factor" is a factor which appears to influence whether the death penalty is imposed or not but which by its nature do not provide a "principled" or "meaningful" basis for distinguishing life sentence cases from death sentence cases. Sentences resulting from such factors have been described as "random," "freakish," "capricious," "rare," and "wanton."¹⁷

Post-Furman death litigation had scarcely commenced in Maryland when concerns began to be expressed that the likelihood of a death sentence being imposed depended less on the crime and the defendant than it did on the locality in which the crime was committed and the policy and philosophy of the prosecutor who made the unreviewable decision of whether or not to seek the death penalty.¹⁸ The issue quickened in 1981 when in the Montgomery County capital case of State v. James Arthur Calhoun seventeen of Maryland's State's Attorneys testified prior to trials about their policies in the prosecution of death cases.¹⁹ The record adduced in that case was fairly summarized as follows:

The data demonstrates a substantial variation, ranging from 1.8% to 100%, in the percentage of cases in which the death penalty is sought, depending upon the identity of the prosecutor making the determination. Equally important, this data shows that there is a

¹⁷ Pulley v. Harris, 465, U.S. 37, 43, 45, 452 (1984); Gregg v. Georgia, 428 U.S. 153, 161, 173, 188 (1976); Furman v. Georgia, 408 U.S. 238, 293, 295, 309, 310, 312, 358 (1972). See generally Baldus, Pulaski, and Woodworth, "Arbitrariness and Discrimination in the Administration of the Death Penalty: A Challenge to State Supreme Courts," 15 Stetson L.R. 133 (1986).

¹⁸ Maryland Code (1957, 1982 Repl. Vol) Art. 27, sec. 412(b) provides that a sentence of life imprisonment shall be imposed for first degree murder unless the State notifies the defendant 30 days in advance of trial of the State's intention to seek the penalty of death.

¹⁹ Prosecutors were summoned to testify in several other cases, but Calhoun was the only one of those defendants to receive a death sentence, and consequently only the record in his case reached the Court of Appeals.

substantial variation in the standards employed by prosecutors in deciding in which cases to seek the death penalty. In six counties, the prosecutors exercise virtually no discretion: these prosecutors seek the death penalty whenever a single aggravating circumstance is present and mitigating circumstances are not taken into account. In six other counties and Baltimore City, prosecutors exercise considerable discretion. Such prosecutors weigh the aggravating circumstances against the mitigating circumstances in determining whether to seek the death penalty. There are many other variations in the standards employed by prosecutors. In some jurisdictions the strength of the case is evaluated. Sometimes the question of whether a jury would impose the death penalty is considered. In Baltimore City the death penalty is sought if there is a substantial likelihood that the jury would impose death. In Montgomery County, the death penalty is sought if there is a reasonable possibility. In Charles County, the death penalty is sought unless it is very unlikely that the jury will impose that penalty. In two counties, the prosecutors take public sentiment with respect to the case into account, whereas in three others they do not. In one county, the prosecutor considers the burden of prosecuting a death penalty case upon the State's Attorney's office and the courts, whereas in seven other counties, they do not. A prosecutor in one county seeks the death penalty as a device to obtain a plea bargain, whereas the prosecutors in no other county engage in such a practice. In a single county, the prosecutor seeks the death penalty in felony murder cases only when the aggravating circumstances are separate and distinct from the underlying felony, whereas no prosecutor in any other county has such a policy. [Tichnell v. State, 297 Md. 432, 496-97, 468 A.2d 1 (1983) (Davidson, J. dissenting)].

The Court of Appeals ultimately saw in this 1981 record no evidence sufficient to suggest that the statute was working unfairly or improperly. Calhoun v. State, 297 Md. 563, 468 A.2d 45, cert. denied 466 U.S. 993, 104 S.Ct. 2374 (1983). The issue, however, has not died. In a recent American Bar Association publication, a Maryland prosecutor suggested that "post-Furman condemned defendants have been selected by prosecutors in a manner that appears as freakish as the selection before the court-mandated guided discretion," given the disparate policies of prosecutors and their reliance on such factors as "the cost of prosecution, community attitudes, points of view of individual police officers, the possibility of obtaining the

defendants' cooperation against other defendants or in other matters, media concern, and so on."²⁰

The current data indicate that the divergence of policy among Maryland prosecutors still often spells the difference as to whether the death penalty will be imposed in a particular case or not. As Table 2 indicates, for example, whereas Baltimore City has filed death penalty notices in 10.0% (18) of its cases which qualified for the death penalty, its neighbor Baltimore County filed death notices in 56.5% (26) of its death-eligible cases. Notwithstanding that the City accounts for nearly four times as many death-eligible murders as the County, in absolute terms the County has conducted more than twice as many penalty phases (28) as has the City (11). Most telling, perhaps, is that Baltimore County, where fewer than one in nine death eligible murders are committed, has sentenced more people to death than all other jurisdictions combined.²¹

Nor is it fair to say that there are merely two policies -- Baltimore County's and Baltimore City's. In fact Prince George's County, which is responsible for 18.1% (75) of the death-eligible murders, far outstrips all jurisdictions in the number of death penalty notices it has filed (49/34.5% of state total). No one, however, is currently under sentence of death in any Prince George's County case.

²⁰ Sonner, "Asking for the Death Penalty: The Lack of Standards in the Thinking of Prosecutors," Criminal Justice, Vol. 1, No. 3 (Fall, 1986).

²¹ Ironically, there appears to have been far more geographic consistency in application under Maryland's pre-Furman death sentencing laws. Baltimore City accounted for a more appropriate 48% (59) of all defendants sentenced to death in the period 1936 through 1961, whereas Baltimore County accounted for 5% (7).

Table 2
Prosecutorial Decisions on the Death Penalty
Comparison of Metropolitan Counties

COUNTY	QUALIFIED HOMICIDE CASES	DEATH NOTICES FILED	DEATH NOTICES W/DRAWN	CAPITAL PROCEEDINGS HELD
Anne Arundel	30	6	2	4
Balto. City	180	18	8	10
Balto. Cnty.	46	26	3	23
Montgomery	19	8	4	4
Prince Geo.'s	75	49	34	15

No one suggests that the county-to-county differences are coincidental. There are clearly inmates under sentence of death who would be serving life sentences were they prosecuted in other jurisdictions by other prosecutors, and the reverse is just as clearly true. Some see the issue as merely a product of each elected State's Attorney's traditional prerogative to set priorities and to decide when to prosecute. Nevertheless it is generally perceived that the Maryland death penalty law was intended to have statewide application and to be imposed with "reasonable consistency" on that basis. Moreover, as the term "arbitrariness,"²² is used here, it is difficult to accept inconsistent prosecutorial policy as a "principled" or "meaningful" basis to impose death in one case and life in another.

C. Evidence of discriminatory imposition of the death penalty.

Race has long been suspected as a factor in the death sentencing process. A 1961 report to the Maryland General Assembly, noting that 78% of all persons executed in Maryland from 1936-1961 were black, specifically

²² See footnote 17, supra, and accompanying text.

observed that "[t]he death penalty is used too often for the indigent and members of the Negro race."²³ One of the nine Furman opinions averred that the existing systems were "pregnant with discrimination,"²⁴ and noted that blacks represented the overwhelming majority of death rows then existing.

Since the resumption of the death penalty in 1976, however, concerns about racial discrimination and the death penalty have focused less upon the race of the offender than upon the race of the victim. A phenomenon strongly suggested in the late 1970's in the South was that disproportionate numbers of capital defendants whose victims were white were sentenced to death. This phenomenon was explored in a number of southern states and confirmed by every study undertaken.²⁵

Within the last year, in the case of McCleskey v. Zant,²⁶ the Supreme Court of the United States had occasion to consider the implications of the most comprehensive and sophisticated study to date on whether the death penalty in practice discriminates against persons on the basis of the race of the victim. The data disclosed that defendants charged with killing

²³ Committee on Capital Punishment, Report to the Legislative Council of Maryland 32,35 (1961).

²⁴ 408 U.S. at 257 (Douglas, J., concurring).

²⁵ See, e.g. Gross & Mauro, "Patterns of Death: An Analysis of Racial Disparities in Capital Sentencing and Homicide Victimization," 37 Stan. L. Rev. 27 (1984); Paternoster, "Prosecutorial Discretion in Requesting the Death Penalty: A Case of Victim-Based Racial Discrimination," 18 Law & Soc. Rev. 437 (1984); Bowers, "The Pervasiveness of Arbitrariness and Discrimination Under Post-Furman States," 74 J. Crim. L. & Criminology 1067 (1983); Arkin, "Discrimination and Arbitration in Capital Punishment: An Analysis of Post-Furman Murder Cases in Dade Co., Fl. 1973-76," 33 Stan. L.R. 75 (1980); Baldus, Woodworth & Pulaski, "Monitoring and Evaluating Contemporary Death Sentencing Systems: Lessons from Georgia," 18 U.C. Davis L.Rev. 1375 (1985).

²⁶ ___ U.S. ___, 95 L.Ed.2d 262 (1987).

white victims were 4.3 times as likely to receive a death sentence as defendants charged with killing blacks. The Supreme Court accepted that the data "demonstrate[d] a risk that the factor of race entered into some capital sentencing decisions," but nevertheless perceived no constitutional significance. The proper forum, the Court explained was state legislature.

The data compiled by the Maryland Office of the Public Defender in connection with its proportionality project includes data on the offender and the victim. Of the 415 cases which qualified for the death penalty involving 474 murder victims, the race of 409 offenders and 438 victims is known.²⁷ On a statewide basis, murders involving white victims represent 42.6% (202) of all cases eligible for the death penalty, and murders involving black victims account for 46.7% (221) of all such cases²⁸; there are, in other words, fewer death-eligible cases involving white victims than there are cases involving black victims.

An analysis of whether racial influences bear on the death penalty process requires first a recognition of the stages at which discretion is exercised in the process. The first such stage is the prosecutor's determination of whether or not to file a formal notice of intention to seek the death penalty; the second step is the prosecutor's decision on whether to pursue the case to a penalty phase or to withdraw the death penalty notice, either unilaterally or in connection with plea negotiations. The final step in the process is sentencing determination by the judge or jury.

Table 3 contains information on the two steps wherein the prosecutor's

²⁷ A complete roster of defendants disclosing this racial data is contained in Appendix A.

²⁸ The remaining 10.7% are victims of other or unknown ethnicity.

discretion is implicated.²⁹ Cases involving white victims account for 65.2% (107) of all cases where prosecutors have filed death penalty notices, whereas black victim cases account for 32.9% (54) of that total. Bearing in mind that white victim cases account for 42.6% of all death eligible cases and that black victim cases account for 46.7% of such cases, the numbers suggest that Maryland prosecutors have filed death penalty notices in a disproportionately high number of cases involving white victims; whereas death notices have been filed in more than half (107 of 202/53.0%) of all white victim cases, they have been filed in but a quarter (54 of 221/24.4%) of the black victim cases. Stated as a numerical probability, it is 2.18 times more likely that a death penalty notice will be filed in a case involving the murder of a white person than in a case involving the murder of a black person.

Table 3 also discloses that in the second step of the prosecutorial process, filed death penalty notices were withdrawn in a disproportionately high number of cases involving black victims. Death penalty notices filed in 40.2% (43) of cases involving white victims were subsequently withdrawn, whereas notices filed in 72.2% (39) of cases involving black victims were subsequently withdrawn. Otherwise put, prosecutors pursued their filed death penalty notices to a penalty phase in 59.8% of cases involving white victims and in 27.8% of the cases involving black victims. Stated as a numerical probability, it is 2.15 times more likely that a filed death penalty notice will be withdrawn where the murder victim was black than where the murder victim was white.

²⁹ As indicated above, there is a substantial attrition of cases at these two levels.

In all, prosecutors seek the death penalty (i.e. file a death penalty notice and pursue it to a penalty phase) in 31.7% (64 of 202) of all cases involving white victims and in 6.8% (15 of 221) of all cases involving black victims. There is, therefore, a 4.7 times greater numerical probability that the prosecutor will seek the death penalty in a case involving a white victim than in a case involving a black victim.³⁰

Table 3 Prosecutorial Decisions on the Death Penalty Comparison of the Race of Victims				
RACE OF VICTIM	QUALIFIED HOMICIDE CASES	DEATH NOTICES FILED	DEATH NOTICES W/DRAWN	CAPITAL PROCEEDINGS HELD
White Victim	202	107	43	64
Black Victim	221	54	38	16
Other/Unknown	31	3	0	3
TOTAL VICTIMS	474	164	81	83

The final step in the process is the life or death determination made by juries or judges with respect to those cases wherein the prosecutor has chosen to file a death penalty notice and to pursue it to a penalty phase. Table 4 discloses the numbers in this regard. Sentencers have imposed the death penalty in 35.9% of all cases involving a white victim and in 20.0% of the cases involving black victims. There is a 1.80 times greater numerical probability that a capital sentencer will impose the death penalty in a case

³⁰ It bears noting that no significant disparity appears based on the race of the defendant. The data discloses that prosecutors file death penalty notices in 35% of cases involving black defendants and in 38% of cases involving white defendants. Penalty proceedings are conducted in 24.5% of cases involving black defendants and in 22% of cases involving white defendants.

involving a white victim than in a case involving a black victim.

Table 4 summarizes the numerical relationship by race of victim of all cases qualified for the death penalty and death sentences imposed. Death sentences have been imposed in 11.38% of white victim cases and in 1.36% of black victim cases. On a statewide basis, as a result of the attrition of cases at the three discretionary steps outlined above, there is an 8.37 times greater numerical probability that the death penalty will be imposed in cases eligible for the death penalty where the victim was white than in such cases where the victim was black.

Table 4 Capital Sentencing Results Comparison of the Race of Victims			
RACE OF VICTIM	QUALIFIED HOMICIDE CASES	CAPITAL PROCEED. HELD	DEATH SENTENCES IMPOSED
White Victim	202	64	23
Black Victim	221	16	3
Other/Unknown	31	3	0

It is important to recognize that the Office of the Public Defender has not subjected its data to the sophisticated statistical analysis performed on the race-of-victim data which was the subject of the Supreme Court's ruling in McCleskey v. Zant.³¹ The numbers represent merely the available raw sentencing data for the period 1978 - 1987. Nevertheless, no factor or group of factors remotely bears so strong a numerical correlation with capital sentencing results as does the race of the victim.

³¹ The authors of that study utilized a regression analysis in an effort to take account of variables that could have explained the disparity on nonracial grounds.

Prisoners Under Sentence Of Death

In Maryland: A Glimpse At The Row

The pages which follow provide biographical data on the prisoners under sentence of death as of January 1, 1988. The "State's Version" of the respective offenses are given, as is a summary of the procedural history of each case. Additional pertinent information is also provided, drawn from the reports filed by trial judges pursuant to Maryland Rule 4-343(g).

Maryland's death-sentenced inmates fit no particular profile. Racially, five are caucasian and twelve are black. The victims of all but one Defendant were white. Two defendants were acquitted of premeditated murder but convicted on a felony-murder theory. Eleven of the seventeen committed their crimes in Baltimore County; neither Baltimore City nor any other county has more than one inmate on death row. Five were under age 21 at the time of their crimes, and two were under 18. Five have no prior record for a crime of violence, and two have no prior criminal record whatever. Two had their death sentences imposed by trial judges who thought the sentences unjustified on the facts, but who were required to follow the will of the jury.

Richard Danny Tichnell

State's version.

Tichnell and a codefendant broke into a store in Oakland at approximately 5:25 a.m. on January 18, 1979. The store was not then open and nobody was present. Tichnell's departure from the scene was interrupted by Deputy Sheriff David Livengood, whom he shot and killed. While exactly what happened is disputed, it is clear that Deputy Livengood shot Tichnell before being killed. The codefendant, Oscar Rezek, who received a life sentence.

Procedural history.

Charged in Garrett County. Venue changed to Wicomico County, where sentence of death was imposed August 24, 1979. Conviction affirmed, but sentence vacated 287 Md.695, 415 A.2d 830 (1980); sentence of death again imposed, August 20, 1980. On appeal, sentence vacated 290 Md. 43, 427 A.2d 991 (1981). Venue then changed to Calvert County, where sentence of death again imposed on January 21, 1982. Sentence affirmed, 297 Md. 432, 468 A.2d 1 (1983). Petition for writ of certiorari denied by U.S. Supreme Court, 104 S.Ct. 2374 (1984). On post conviction review, the Circuit Court for Calvert County (Melbourne, J.) filed an order on March 19, 1985 upholding the convictions but vacating the sentence of death and ordering a new sentencing proceeding. On cross appeals to the Court of Appeals, the post conviction relief reversed and death sentence was re-imposed, 306 Md. 428, 509 A.2d 1179 (1986). Petition for writ of certiorari denied by U.S. Supreme Court, 107 S.Ct. 598 (1987). Federal habeas corpus petition filed March 18, 1987. Hearing on federal petition conducted December 11, 1987. Status: Awaits ruling on federal habeas corpus petition.

Notes from the trial judge's reports:

White male, native and resident of West Virginia, aged 32 at time of the offense. Married with one child, and unemployed at the time of the offense. Several years of military service. He had never been previously convicted of any offense. He was sentenced to death notwithstanding a jury's finding that he acted under substantial duress, domination or provocation and that he would not likely engage in further criminal activity that would constitute a continuing threat to society.

Eugene Colvin

State's version

Colvin broke into a home in suburban Baltimore County on the afternoon of September 9, 1980, fatally stabbed the lone occupant of the house at the time, family guest Lena Buchman, and stole approximately \$10,000 in jewelry.

Procedural history

Venue changed from Baltimore County to Anne Arundel County. Sentence of death imposed August 20, 1981. Conviction and sentence affirmed, 299 Md. 88, 472 A.2d 953, cert. denied 496 U.S. 873, 105 S.Ct. 226 (1984). On post conviction petitions filed December 6, 1984, convictions affirmed but new sentencing ordered by Circuit Court for Anne Arundel County on July 28, 1986. Cross petitions for review by both parties granted September 8, 1986. Status: Pending in Court of Appeals of Maryland on cross-petitions for review of post conviction award of limited relief.

Notes from trial judge's report

Black male, age 35 at the time of the offense; one of fifteen children; lifelong resident of Baltimore City; father of two children; one prior robbery and numerous prior burglary convictions.

James Arthur Calhoun

State's version.

Calhoun and a co-defendant. Curtis Monroe, broke into a W. Bell & Co. store in Montgomery County on March 27, 1981. In response to a silent alarm, the store manager arrived with a county police officer, Philip Metz, and an alarm technician, David Myers and encountered the burglars. Calhoun shot Officer Metz in the head. Monroe shot the other two, wounding the manager and killing Mr. David Myers. Monroe was given a sentence of life imprisonment.

Procedural History.

Sentence of death imposed October 10, 1981. Convictions and sentence of death affirmed 297 Md. 563, 468 A.2d 45, cert. denied 466 U.S. 993, 104 S.Ct. 2374 (1983). On postconviction review, convictions affirmed but sentence vacated by Circuit Court for Montgomery County. On cross appeals to Court of Appeals of Maryland, judgment reversed, post conviction relief ordered denied. 306 Md. 692, 511 A.2d 461 (1986). Certiorari denied. Status: Federal habeas corpus petition pending.

Notes from trial judge's report

Black male, age 27 at the time of the offense. James Calhoun had an extensive criminal history and a long history of drug abuse. The jury which sentenced him specifically found that his "background ... has been such that he has never been integrated into society. Therefore, he has been and is unable to conform with the norms and moral values."

John Norman Huffington

State's version

Along with co-defendant Deno Kanaras, who received a life sentence, Huffington met with victim, Joseph Hudson, to discuss a drug transaction. Huffington was convicted of shooting Hudson several times and stealing the drugs from the victim's pocket. Huffington and Kanaras then went to Hudson's in order to steal additional money and drugs. Inside the trailer was Hudson's girlfriend, Diane Becker, who was stabbed to death.

Procedural history

Indicted in Harford County in 1981. Upon change of venue, a sentenced to death was returned by a Caroline County jury on December 2, 1981. On direct appeal, the Court of Appeals of Maryland reversed and ordered a new trial. 295 Md. 1, 452 A.2d 1211 (1982). Upon subsequent change of venue, sentence of death was next returned by a Frederick County jury on May 1, 1984. The Court of Appeals affirmed. 304 Md. 559, 500 A.2d 272 (1985), cert. denied 106 S.Ct. 3315 (1986). Status: Awaits hearing of petition filed pursuant to Maryland post conviction procedure act.

Notes from trial judge's report

White male, age 18 at the time of the offense. "Identity of natural parents apparently unknown." Medicated for childhood hyperactivity until about age twelve; received regular psychiatric treatment for emotional problems; examined by neurologist in connection with his violent temper. No prior criminal record. Became heavily involved in drugs at age 17. In the instant offense was found not guilty of premeditated murder, but convicted on felony murder theory.

James Russell Trimble

State's version

Trimble and three codefendants. Anthony Kordell, James Hanna and Joseph Owens picked up two women from a bar in the Essex area of Baltimore County. The two women agreed to accompany the defendants in their van. The van was driven to a desolate area bounded by a cornfield, where the women were gang-raped. One of the women, Nila Rogers, was killed by Trimble with a blow to the head and by stabbing.

Procedural history

Charged, tried, and sentenced to death in Baltimore County. Sentence of death imposed consecutive to three consecutive life sentences plus 70 years, March 19, 1982. Convictions and sentence of death affirmed 300 Md. 387, 478 A.2d 1143, cert. denied 469 U.S. 1230 (1985). Status: Awaits ruling on petition for postconviction relief.

Notes from trial judge's report

White male, age 17 at the time of the offense; mentally retarded, with a full scale I.Q. of 64; extensive drug abuse; no prior adult record for crime of violence. Codefendant who testified against him pleaded guilty to first-degree murder and was given probation.

Lawrence Johnson

State's version

On January 9, 1979, Johnson and his cousin, Dwayne Mayers, broke and entered the basement window of a residence in Baltimore County. Upstairs, they encountered the victim, Esther Rosenblatt. In the ensuing robbery, the victim was beaten and strangled.

Procedural history

Charged in Baltimore County. Venue changed to Harford County, where sentence of death was imposed on October 5, 1982. Trial court granted a new sentencing proceeding, and at second sentencing proceeding sentence of death was again imposed, on February 18, 1984. The Court of Appeals affirmed the convictions and the sentence of death. 303 Md. 487, 495 A.2d 1 (1985). Petition for writ of certiorari was denied. 106 S.Ct. 1135 (1986). Petition for post conviction relief was filed April 30, 1987. Status: Awaits hearing of post conviction petition.

Notes from trial judge report

Black male, age 17 at the time of the offense. Borderline intelligence (I.Q. of 78), with organic brain damage. Jury found that Johnson was not the sole proximate cause of the victim's death; codefendant Mayers, who confessed to being actual killer, was given a life sentence.

Marselle Bowers

State's Version

The defendant pulled up behind the victim's car which was parked on the shoulder of the road in Worcester County. The victim was transported to an area of Pocomoke, where she was raped and sodomized. She was then transported to Somerset county, where she was strangled.

Procedural history

Charged in Somerset County on September 16, 1981. Notice of intention to seek death penalty filed December 17, 1981. Case removed to Circuit Court for Charles County, where sentence of death was imposed on October 22, 1982. Conviction affirmed, but sentence vacated, 298 Md. 115, 468 A.2d 101 (1983). Again sentenced to death on October 25, 1984. Sentence affirmed on appeal. 306 Md. 120, 507 A.2d 1072 (1986). Petition for writ of certiorari denied. 107 S.Ct. 292 (1986). Status: Awaits hearing of postconviction petition.

Notes from trial judge's report

Black male, 29 years of age at time of offense. No prior record for any crime of violence. The sentencing jury specifically found that Bowers was not the sole proximate cause of the victim's death and that his conduct was affected by his military service in Germany and by his divorce.

Jackie Kevin Harris

State's version

On August 9, 1981, Harris and co-defendant Carl Brown entered the Sportman's Ltd. sporting goods store intending to commit a robbery. After the two announced a hold-up, the victim Stephen Hviding reached for a handgun but was shot and killed by Harris before he could use the weapon. A patron was robbed and numerous handguns and rifles were gathered by the two defendants before they left the scene.

Procedural History

Charged in Baltimore County. Initially pleaded not guilty and changed venue to Kent County, but thereafter returned the case to Baltimore County, where a plea of guilty was entered, and, on April 5, 1982, a sentence of death was imposed by the Court. The Court of Appeals vacated the sentence. 295 Md. 329, 455 A.2d 979 (1983). On remand, on July 22, 1983, a sentence of death was imposed by Baltimore County jury. On appeal, the Court remanded for a hearing on Harris' motion to withdraw the original plea of guilty. 299 Md. 511, 474 A.2d 980 (1984). The Circuit Court's subsequent denial of that motion on July 27, 1984, was upheld by the Court of Appeals. 303 Md. 685, 496 A.2d 1074 (1985). The sentence of death was thereafter vacated. 306 Md. 44, 509 A.2d 120 (1986). On remand for new sentencing, venue was changed to Harford County, where a sentence of death was returned by a jury on March 20, 1987. Status: Pending on direct appeal, Court of Appeals of Maryland.

Notes from trial judge's report

Black male, aged 21 at time of the offense; one prior criminal conviction (robbery). Despite reliable evidence identifying a third robber as the shooter, Harris confessed and pleaded guilty.

Derrick Quinton White

State's Version

After a failed attempt of robbing a tile store, White and co-defendant Gerald Anthony began driving home. On their way home, the defendants drove by Victor Furst, who was riding a moped. The defendant pointed a handgun out of the car window and shot the victim in an attempt to steal the moped.

Procedural History

Charged in Baltimore County on September 2, 1981, and sentenced to death there on April 12, 1982. Conviction and sentence upheld on direct appeal. 300 Md. 719, 481 A.2d 201 (1984). Petition for certiorari denied by U.S. Supreme Court, 470 U.S. 1062 (1985). Petition for postconviction relief filed 1985. Status: Awaits hearing on postconviction petition.

Notes from trial judge's report

Black male, eighteen years old at the time of the offense. "Dull witted," in the opinion of the trial judge. Found not guilty of premeditated murder, but convicted on felony murder theory. Trial judge stated in his report that jury's determination to impose death was "questionable" given lack of specific intent to kill.

Donald Thomas

State's version

The victims Donald and Sarah Mae Spurling were stabbed to death in their home after a drug-related argument with the Thomas, who thereafter went to the second floor of the home and raped a woman who was a boarder in the residence. She ultimately escaped by jumping from a second floor window.

Procedural History

Charged in Baltimore County and sentenced to death there on December 10, 1982. Conviction and sentence upheld on direct appeal. 301 Md. 294, 483 A.2d 6 (1984). Petition for writ of certiorari was denied. 105 S.Ct. 1856 (1985). Petition for post conviction relief was filed August 1, 1986. Status: Hearing on petition scheduled for January, 1988.

Notes from trial judge's report

Black male, twenty-three years of age at time of offense. Perkins Hospital examination disclosed borderline intelligence, with I.Q. of 73. "Dumb, nonverbal, and listless." "Product of chaotic violent environment where he had experienced rejection, neglect and abuse."

Anthony Grandison

State's version: Grandison contracted co-defendant Evans, to kill David and Cheryl Piechowicz in order to prevent the two from testifying against Grandison on a drug trafficking charge. Evans entered the Warren House Motel in Baltimore County and shot Mr. Piechowicz and another motel employee, Susan Kennedy, believing mistakenly that she was Mrs. Piechowicz.

Procedural History

Venue changed from Baltimore County to Somerset County. Sentence of death imposed June 6, 1984. Convictions and sentence affirmed, 305 Md. 685, 506 A.2d 580 (1986). Petition for writ of certiorari was denied by the U.S. Supreme Court. 107 S.Ct. 611 (1986). Petition for writ of habeas corpus subsequently filed in U.S. District Court for Maryland, and heard on November 16, 1987. Status: federal habeas corpus petition pending.

Notes from trial judge's report

Black male, age 30 at the time of the offense. Jury found no prior convictions for crime of violence.

Vernon Evans

State's version

Having been hired by Anthony Grandison for \$9000 to kill witnesses scheduled to testify against Grandison in a federal narcotics prosecution, Evans shot and killed David Scott Piechowicz and Susan Carol Kennedy.

Procedural history

Charged in Baltimore County, but venue changed to Worcester County, where Evans was sentenced to death on May 15, 1987. Convictions and sentence of death were upheld on direct appeal. 304 Md. 487, 499 A.2d 126 (1985). Motion for rehearing was denied. 305 Md. 306, 503 A.2d 1326 (1986). Petition for writ of certiorari was denied by the U.S. Supreme Court. 106 S.Ct. 3310 (1986). Postconviction proceedings are pending.

Notes from trial judge report

Black male, age 33 at the time of the offense; father of seven children. Jury found that Evans' drug addiction was a factor contributing to the commission of the offense.

Ralph William Mills

State's version

The defendant and the victim, Paul Brown, shared a cell at the Maryland House of Correction in Washington County. Brown was stabbed to death with a homemade knife, probably while he was asleep.

Procedural history

Charges were filed in Washington County. Venue was changed to Allegany County, where sentence of death was imposed on March 5, 1985. On direct appeal, conviction and sentence were affirmed. 310 Md. 33, 527 A.2d 3 (1987). Petition for writ of certiorari was granted by the Supreme Court of the United States on December 7, 1987.

Notes from trial judge's report

White male, age 20 at the time of the offense. Presentence report describes medical history of brain damage, chaotic family life, extensive delinquency, extensive drug abuse starting at age 8.

Gregory Jones

State's version

Having been cheated by Charles Jordan in a drug transaction, Jones went with codefendants Peter and Christopher Conover to the victims' home. The Conovers entered the house posing as police officers. The two co-defendants ransacked the second floor bedrooms in a search for money or drugs. Jones entered the residence and demanded to know where the money was hidden. Charles Jordon, Linda Jordon, and Lisa Brown were gagged and shot at close range by Jones. Linda Jordon pretended to be dead as the three assailants left the house and was successful in contacting the police.

Procedural history

Charged in Baltimore County and sentenced to death there on May 13, 1985. Convictions and sentence of death affirmed on direct appeal. 530 A.2d 743 (1987). Petition for writ of certiorari filed November, 1987.

Notes from trial judge's report

Black male, age 30 at the time of the offense. One prior incarceration, for second-degree murder. Extensive drug involvement.

Flint Gregory Hunt

State's version

On November 18, 1985, Baltimore City Police Officer Vincent Adolfo attempted to stop a stolen car being driven by Hunt. The defendant leaped from the moving vehicle and ran into an alley. Adolfo gave chase, and caught up to the defendant. During a struggle, the defendant shot the Officer Adolfo twice, killing him.

Procedural history

Charged in Baltimore City and sentenced to death there on July 2, 1986.
Status: Pending on direct appeal, Court of Appeals of Maryland.

Notes from trial judge's report

Black male, age 26 at the time of the offense.

Robert Bedford

State's Version

Defendant entered the home of the victim, Julianna Jung, intending to commit a robbery. Once inside, the defendant tied the victim to a bed, raped her and beat her to death with a blunt instrument. Several items of jewelry, a stereo, a towel, and her automobile were stolen.

Procedural history

Sentenced to death by a Baltimore County jury on June 10, 1987. Direct appeal is pending before the Court of Appeals of Maryland.

Notes from trial judge's report

Black male, age 23 at the time of the offense; has lived in Baltimore City all his life. "Both parents were alcoholics who abused him both physically and emotionally. Robert was removed from the home at age 7 because of abuse and neglect." One prior adult conviction (robbery). Jury found the following mitigating circumstances: "No moral or ethical guidance; abandonment; alcoholic parents; neglected; abused physically and mentally; State failed in its obligation."

Al Wayne Doering

State's version

Doering, who lived with co-defendant David Reinhardt and three others in an abandoned bus in a junkyard, entered the victim's home intending to steal valuables and food. After taking several items from different rooms in the house, the offenders found a locked bedroom and heard a rifle being loaded behind the locked door. The victim, Henry Riepe, then opened the door and, armed with a rifle, confronted the defendant, at which point Doering fired a single shot which hit the victim in the chest and killed him. The two defendants proceeded to ransack the house in search of valuables.

Procedural history

Sentenced to death by Baltimore County jury on June 29, 1987. Appeal pending before Court of Appeals of Maryland.

Notes from trial judge's report

White male, age 21 at the time of the offense. Family separated at age 4, and Doering lived in foster care until age 9, at which time he was adopted. "He had a horrible childhood and is angry at a number of people he feels responsible for that fact. Solace is sometimes found in dwelling on and acting out some of his fantasies...." No prior convictions, dispositions, or periods of incarceration either as a juvenile or as an adult. Trial judge's opinion was that "[i]t is doubtful" that jury's sentence of death was justified.

APPENDICES

APPENDIX A.

Cross-Referenced List of Defendant and Victim Information in the Proportionality Database as of: 12/15/87

Defendant Name * (Last, First)	Charge		Race of Defendant		Race of Victim						Total				Total Capital	
	County	Charge Number			#1	#2	#3	#4	#5	#6	Victims	Filed	Held	Death	Plea	Proceedings
Allen	Michael	AA	26322	White	W						1	Yes	Yes	No	No	1
Allgood	George	BA	19335307	Black	B						1	No	No	No	No	0
Anderson	Leon	BA	18214116	Black	B						1	No	No	No	Yes	0
Appleby	Nathaniel	BA	18429601	Black	B						1	Yes	No	No	No	0
* Armstrong	David	BA	18202525	Black	U	U					2	No	No	No	No	0
Austin	Michael	BA	18120810	Black	B						1	No	No	No	No	0
Bacon	Franklin	PG	CT 85-2528	Black	B						1	No	No	No	Yes	0
Bacon	Russell	BC	74952	Black	W						1	No	No	No	Yes	0
Bailey	Julius	PG	CT 84-446	Black	B						1	Yes	No	No	Yes	0
Bailey	Julius	PG	CT 84-447	Black	W						1	Yes	Yes	No	No	1
Ball	Sheldon	BA	18208314	Black	B						1	No	No	No	No	0
Baltimore	Troy	PG	CT 84-9688	Black	B						1	Yes	No	No	Yes	0
Banks	Eugene	PG	CT 200018	Black	B						1	Yes	No	No	No	0
* Banks	Eugene	PG	CT 200028	Black	U						1	Yes	No	No	No	0
Barba	John	CE	5078	White	W						1	No	No	No	No	0
Barksdale	Aaron	BA	18135727	Black	B						1	No	No	No	Yes	0
* Barnes	Elroy	PG	CT 81-1226A	Black	U						1	No	No	No	Yes	0
Barnes	Vernon	BA	18528004	Black	B						1	No	No	No	Yes	0
Barnett	Joseph	BA	18434801	Black	B						1	No	No	No	No	0
Barr	Dennis	WA	5214	White	W						1	Yes	No	No	Yes	0
Bedford	Robert	BC	86 CR 6519	White	W						1	Yes	Yes	Yes	No	1
Bell	Timothy	FR	6683	White	W	W					2	No	No	No	Yes	0
Belle	Bryant	BA	18621706	White	B						1	No	No	No	Yes	0
Belle	Bryant	BA	18617604	Black	W						1	No	No	No	Yes	0
Bennett	Kevin	PG	CT 82-1458B	Black	B						1	Yes	No	No	Yes	0
Billups	Kenneth	BC	85 CR 4211	Black	W						1	Yes	Yes	No	No	2
Bloodsworth	Kirk	BC	84 CR 3138	White	W						1	Yes	Yes	No	No	2
Bloom	Herbert	BA	18124403	White	W						1	No	No	No	Yes	0
Bolden	Michael	PG	CT 85-0066	Black	B						1	No	No	No	Yes	0
Booth	John	BA	18322228	Black	B						1	No	No	No	No	0
Booth	John	BA	18318813	Black	W						1	Yes	Yes	Yes	No	1
Bowers	Marselle	SO	82-107	Black	W						1	Yes	Yes	Yes	No	2
Bowers	Ricky	AL	2369	White	W						1	Yes	No	No	Yes	0
Boyd	Robert	BA	18223727	Black	O						1	No	No	No	No	0
Brantner	Robert	WA	7041	White	W	W	W				3	Yes	Yes	No	No	1
Bratt	Larry	AA	25810	White	W	W					2	No	No	No	No	0
Braunstein	Joann	BA	18426920	Black	B						1	No	No	No	Yes	0
Braxton	Donald	BA	18128805	Black	B						1	No	No	No	No	0
Brewton	Wayne	BC	66557	Black	W						1	No	No	No	No	0
Briscoe	Darrell	WA	5493	Black	B						1	Yes	No	No	Yes	0
Brooks	Byron	BA	17922115	Black	B						1	No	No	No	Yes	0
Broome	Lester	SM	5395	Black	W						1	Yes	No	No	Yes	0
* Brown	Donald	PG	CT 81-1939A	Unknown	J						1	Yes	No	No	Yes	0
Brown	Edward	BA	18701618	Black	W						1	No	No	No	Yes	0
Brown	James	BA	18332008	Black	B						1	No	No	No	Yes	0
Brown	Joseph	HA	7107	Black	B						1	No	No	No	No	0
Brown	Michael	BA	18126405	Black	W						1	No	No	No	No	0
Brown	Wallace	BA	18535406	Black	B						1	No	No	No	No	0
Bruggeman	James	BA	18608034	White	B						1	No	No	No	Yes	0

Defendant Name * (Last, First)	Charge		Race of Defendant	Race of Victim						Total			Total Capital		
	County	Charge Number		#1	#2	#3	#4	#5	#6	Victims	Filed	Held	Death	Plea	Proceedings
Buckley	Donald	MO	27993	Black	W					1	Yes	No	No	No	0
Burton	Alfred	BA	18500802	Black	B	B				2	No	No	No	No	0
Syrd	Francis	BA	17917816	Black	B					1	No	No	No	No	0
Syrd	Jonathan	BA	18231425	Black	W					1	No	No	No	Yes	0
Calhoun	James	MO	26250	Black	W					1	Yes	Yes	Yes	No	1
Can	Rodney	BA	18111258	Black	B					1	No	No	No	Yes	0
Canfield	Darrell	WA	6058	White	W					1	No	No	No	Yes	0
Carr	Romaz	BA	18505702	Black	B	B				2	No	No	No	No	0
* Carter	Calvin	AA	24697	Black	U					1	No	No	No	No	0
Casella	Lisa	PG	CT 83-901A	White	W					1	No	No	No	Yes	0
Chadderton	Daniel	CR	6362	White	W					1	Yes	Yes	No	No	1
Cham	Tony	BA	18122507	Black	O					1	No	No	No	Yes	0
Chapple	Orvie	PG	CT 84-910	Black	O					1	Yes	No	No	No	0
Chestnut	Alfred	BA	18335414A	Black	B					1	No	No	No	No	0
Chew	Granwell	CV	PS-5	Black	B					1	Yes	No	No	Yes	0
Chew	Michael	CV	85-135	Black	W					1	Yes	Yes	No	No	1
Chronaker	Donald	SM	4917	White	W					1	No	No	No	Yes	0
Cirincione	Leonard	BA	18623301	White	W					1	Yes	Yes	No	No	1
Clark	Mancil	MO	25174	Black	W					1	No	No	No	No	0
Clark	Robert	PG	CT 81-853A	Black	B					1	No	No	No	No	0
* Clinton	Wali	BA	18319540	Black	U					1	No	No	No	No	0
Coates	Kevin	BA	18326207	Black	O					1	No	No	No	Yes	0
* Cobbs	Jesse	AA	26585	Black	U					1	No	No	No	No	0
Cobey	John	MO	28298	Black	W					1	No	No	No	Yes	0
Cole	Jeffrey	BC	86 CR 2055	Black	W					1	No	No	No	No	0
Cole	Vincent	BC	86 CR 2054	Black	W					1	No	No	No	No	0
Coleman	Eugene	PG	CT 82-803	Black	B					1	Yes	No	No	Yes	0
Colvin	Eugene	BC	25349	Black	W					1	Yes	Yes	Yes	No	1
Cooper	Richard	FR	71194	White	W					1	No	No	No	No	0
Cooles	Cecil	BA	18129306	Black	B					1	No	No	No	Yes	0
Corbett	Steven	BA	18534302	Black	B					1	No	No	No	Yes	0
Crawford	Tyree	AA	21887	Black	B					1	No	No	No	No	0
Cropper	Clarence	MO	8215	Black	W					1	No	No	No	Yes	0
Crowe	Dennis	AL	2554	White	W	W				2	Yes	No	No	Yes	0
* Curtis	Bernard	BA	17934007	Black	U					1	No	No	No	No	0
Daniels	Melvin	BA	18103041	Black	B					1	No	No	No	Yes	0
* Daniels	William	PG	CT 81-1149	Black	U					1	No	No	No	No	0
Darby	James	WI	10951	White	W					1	No	No	No	No	0
Daughton	Ricky	BA	18707818	Black	B	B				2	No	No	No	No	0
David	Robert	BA	18702001	Black	B					1	No	No	No	Yes	0
Davis	Samuel	PG	CT 85-671A	Black	B					1	No	No	No	Yes	0
Dean	Harold	BA	18107020	White	W					1	No	No	No	No	0
Dehenny	Donald	MO	PS-49	Black	W					1	Yes	No	No	Yes	0
Dixon	Harvey	AA	23479	Black	B					1	No	No	No	No	0
Doering	Al	BC	86 CR 6128	White	W					1	Yes	Yes	Yes	No	1
Duncan	Joe	BA	18204210	White	W					1	No	No	No	No	0
Dungan	Harry	BC	84 CR 247	White	O					1	Yes	Yes	No	No	1
Oyer	Alfred	AA	22264	Black	B					1	No	No	No	Yes	0
Edgerton	Douglas	BA	18314508	Black	B					1	No	No	No	Yes	0
Eiler	Rickey	BC	PS-31	White	W					1	No	No	No	Yes	0
Elfaal	Kamei	PG	CT 84-007	White	O					1	Yes	Yes	No	No	1

Defendant Name * (Last, First)		Charge County	Charge Number	Race of Defendant	Race of Victim #1 #2 #3 #4 #5 #6						Total Victims	Filed	Held	Death	Plea	Total Capital Proceedings
Ellis	Ronald	PG	CT 81-814	Black	W	B	B	B	B	B	6	Yes	No	No	Yes	0
Ellison	Clinton	BA	18403101	Black	B						1	Yes	Yes	No	No	1
Ellison	Clinton I	BA	18132817	Black	W						1	Yes	Yes	No	No	1
Ellmore	Douglas	PG	CT 83-877	White	W	W					2	Yes	No	No	Yes	0
Emerson	Carl	BA	18300615	Black	B						1	No	No	No	Yes	0
Epos	Ronald I	BA	18014409	Black	B						1	No	No	No	No	0
Epps	Ronald II	BA	18018222	Black	B						1	No	No	No	No	0
Epos	Todd	HO	PG-9	Black	B						1	No	No	No	No	0
Evans	Vernon	BC	8550	Black	W	W					2	Yes	Yes	Yes	No	1
Ewing	Joseph	HA	7233	Black	W						1	Yes	No	No	Yes	0
Faison	Rodney	PG	CT 83-1077	Black	B						1	No	No	No	Yes	0
Featherstone	Willie	BA	18700601	Black	B						1	No	No	No	No	0
Fields	James	PG	CT 82-108	Black	W						1	Yes	Yes	No	No	1
Filorimo	Carl	MO	25274	White	W						1	No	No	No	Yes	0
* Finke	Allen	AA	22705	White	W						1	No	No	No	No	0
* Flesman	Albert	PG	CT 82-933	White	U						1	No	No	No	No	0
Fooks	Thomas	TA	PG-44	White	W						1	No	No	No	Yes	0
Foster	Doris	CE	5827	White	W						1	Yes	Yes	No	No	2
Foster	Nathaniel	BA	18402621	Black	W						1	No	No	No	No	0
* Franklin	Charles	PG	CT 81-1852	Black	U						1	No	No	No	No	0
Franklin	Charles	WA	5582	White	W						1	Yes	No	No	Yes	0
Franklin	Darrell	WI	9872	Black	B						1	Yes	No	No	Yes	0
Franklin	Warren	WA	5582A	White	W						1	Yes	No	No	Yes	0
Freeman	Randy	CH	7721	White	B						1	No	No	No	Yes	0
Gaither	Gregory	BA	17933421	Black	B						1	No	No	No	No	0
Gallahan	David	BA	18024831	White	O						1	No	No	No	Yes	0
* Garrett	Carlton	MO	26363	Black	U						1	No	No	No	No	0
Gee	Montenus	BA	18321508	Black	B						1	No	No	No	Yes	0
Gee	Rudy	BA	18231420	Black	W						1	No	No	No	No	0
Giles	Ralph	BA	18226606	Black	B	B					2	No	No	No	Yes	0
Giles	Wayne	BA	18226602	Black	B	B					2	No	No	No	Yes	0
Goodman	Glen	PG	CT 84-106A	Black	B						1	Yes	Yes	No	No	1
Goodman	Robert	MO	29634	White	W						1	No	No	No	Yes	0
Grandison	Anthony	BC	4010	Black	W	W					2	Yes	Yes	Yes	No	1
Grant	Mark	BA	18301906	Black	B						1	No	No	No	No	0
Grant-Bay	Bernard	BA	18334103	Black	B	B					2	No	No	No	No	0
Greco	Vincent	BC	74022	White	W						1	Yes	Yes	No	No	1
Green	George	BA	18108214	Black	W	B					2	Yes	No	No	Yes	0
Green	Kevin	BA	18401902	Black	B						1	No	No	No	Yes	0
Green	Michael	BA	18128903	Black	B						1	No	No	No	No	0
Green	Tony	DO	4809	Black	B						1	Yes	No	No	Yes	0
Green	Willie	BA	18108220	Black	B	W					2	Yes	Yes	No	No	1
Greene	Carl	BA	18403442	Black	B						1	No	No	No	Yes	0
Grimes	Bobby	BA	18203408	Black	O						1	No	No	No	No	0
Guinyard	Kenneth	PG	CT 84-1314A	Black	W						1	Yes	Yes	No	No	1
Hall	Daniel	PG	CT 81-1614C	Black	B						1	No	No	No	No	0
Hall	Kenneth	BA	18536503	Black	W						1	No	No	No	Yes	0
Hamilton	Orlando	PG	CT 85-253	Black	W						1	Yes	No	No	Yes	0
* Hamilton	Raymond	QA	3037	Unknown	U						1	No	No	No	No	0
Hargrove	William	BA	18312415	Black	W						1	No	No	No	No	0
Harmon	Michael	HA	9211	White	W						1	No	No	No	No	0

Defendant Name * (Last, First)	Charge County	Charge Number	Race of Defendant	Race of Victim						Total		Total Capital			
				#1	#2	#3	#4	#5	#6	Victims	Filed	Held	Death	Plea	Proceedings
Harrell	Tyrone	BC	74670	Black	B					1	No	No	No	No	0
Harrington	Nathaniel	BA	18507002	Black	B					1	No	No	No	No	0
Harris	Andrew	WI	10569	Black	B					1	No	No	No	No	0
Harris	Jackie	BC	74500	Black	W					1	Yes	Yes	Yes	Yes	3
Harris	James	HO	11521	Black	B					1	No	No	No	Yes	0
Harris	Reginald	AA	26632	Black	B					1	No	No	No	No	0
Harsnberger	Beverly	BA	18221518	White	B	B	B	B	B	5	No	No	No	Yes	0
Hart	Andrew	MO	21551	Black	W					1	No	No	No	Yes	0
Harvey	George	PG	CT 81-56	Black	W					1	Yes	No	No	Yes	0
Hatcher	Antoinette	BA	17910916	Black	B					1	No	No	No	Yes	0
Hawkins	Aaron	BA	18423302	Black	B					1	No	No	No	Yes	0
Hawkins	Paul	MO	29399	White	W					1	No	No	No	No	0
Hawkins	Ricky	BA	18129311	Black	B					1	No	No	No	Yes	0
Head	Michael	PG	CT 85-98	Black	B					1	Yes	No	No	Yes	0
Henry	Michael	PG	CT 85-541	Black	B					1	No	No	No	Yes	0
Herrera	Peter	AA	32573	White	W					1	No	No	No	Yes	0
Hewitt	Lynn	WA	8440	White	W					1	No	No	No	No	0
* Hill	Joseph	PG	CT 82-539A	Black	U					1	No	No	No	No	0
Hilton-Bey	Eugene	BA	18105501	Black	B					1	No	No	No	Yes	0
Hines	Howard	PG	CT 82-327	Black	O					1	Yes	Yes	No	No	1
Hines	Rocky	HO	13064	White	B					1	Yes	No	No	Yes	0
Hodges	Leroy	BC	83 CR 3455	Black	B					1	No	No	No	No	0
Hoffman	Donna	PG	CT 81-58	White	W					1	Yes	No	No	No	0
Holmes	Anthony	BA	18127306	Black	B					1	No	No	No	Yes	0
Holt	Steven	WA	5215	Black	B					1	No	No	No	No	0
Hood	James	AA	24642	White	W	W				2	No	No	No	No	0
Hook	Jentry	BC	86 CR 6435	White	W	W				2	Yes	Yes	No	No	1
Horseay	Leon	BA	18233504	Black	B	B				2	No	No	No	No	0
Horton	Elvis	BA	18007809	Black	B					1	Yes	Yes	No	No	1
Howard	Daniel	BC	82 CR 1469	White	W					1	No	No	No	No	0
Howington	Michael	BC	69962	White	W					1	No	No	No	No	0
Howington	Michael	BA	18017602	White	W					1	No	No	No	No	0
Hudson	Glenn	BA	18307029	Black	B	B				2	No	No	No	Yes	0
Huffington	John	HA	6373	White	W	W				2	Yes	Yes	Yes	No	2
Hughes	Jackie	MO	25317	Black	W					1	Yes	Yes	No	No	1
Hunt	Flint Gregory	BA	18533801	Black	W					1	Yes	Yes	Yes	No	1
Hurst	John	BA	18417105	Black	B	B				2	Yes	No	No	Yes	0
Hurst	Spencer	HA	7234	Black	W					1	Yes	No	No	Yes	0
* Jackson	Larry	BA	57827737	Black	U					1	No	No	No	Yes	0
Jackson	Reuben	PG	CT 84-1141	Black	W					1	Yes	Yes	No	No	1
Jackson	William	BA	18704826	Black	B					1	No	No	No	No	0
Jenkins	Barry	PG	CT 82-681	White	B					1	Yes	No	No	Yes	0
Jenson	Thomas	BC	83 CR 3052	Black	B					1	Yes	No	No	Yes	0
Johnson	Bryan	BA	18007737	Black	B					1	No	No	No	Yes	0
Johnson	Carroll	BA	18334201	Black	B					1	No	No	No	Yes	0
Johnson	Orvan	SO	3988	Black	B					1	No	No	No	Yes	0
Johnson	John	PG	CT 82-377	Black	B					1	Yes	Yes	No	No	1
Johnson	Joseph	CH	7447	White	O					1	No	No	No	No	0
Johnson	Lawrence	BC	68761	Black	W					1	Yes	Yes	Yes	No	2
Johnson	Lawrence	BC	68759A	Black	B					1	Yes	Yes	No	No	1
Johnson	Phillip	BA	18118203	Black	B					1	No	No	No	No	0

Defendant Name		Charge		Race of	Race of Victim						Total				Total Capital	
* (Last, First)		County	Charge Number	Defendant	#1	#2	#3	#4	#5	#6	Victims	Filed	Held	Death	Plea	Proceedings
Johnson	Ronald	PG	CT 20681	Black	W						1	No	No	No	No	0
Johnson	Ronald	BC	76415	White	W						1	Yes	Yes	No	No	1
Jones	Alan	PG	CT 82-1314	White	W						1	Yes	No	No	Yes	0
Jones	Booker	BA	18206111	Black	B						1	No	No	No	Yes	0
Jones	Clifton	PG	CT 85-701A	Black	B						1	Yes	Yes	No	No	1
Jones	Glenn	BA	18111802	Black	B						1	No	No	No	No	0
Jones	Gregory	BC	84 CR 3998	Black	B	B					2	Yes	Yes	Yes	No	1
Jones	Harold	FR	7165	Black	W						1	Yes	No	No	Yes	0
Jones	Jack	SM	82 CR 1847	White	W						1	Yes	Yes	No	No	1
Jones	Nicholas	BA	18322408	Black	B						1	No	No	No	No	0
Jones	Robert	BC	PS-11	White	W						1	No	No	No	No	0
Jones	Robert	BA	18017610	White	W						1	No	No	No	No	0
Jones	Rosemarie	BA	18204708	White	W						1	No	No	No	Yes	0
Keenan	Cleveland	BA	18122909	Black	W						1	No	No	No	No	0
Kennedy	Jeffrey	QA	3216	Black	B						1	No	No	No	Yes	0
* Kerns	Dennis	PG	CT 81-506	White	U						1	No	No	No	No	0
Kiley	Wayne	PG	CT 80-984	White	W						1	Yes	No	No	Yes	0
King	Susan	OO	5012	Black	B						1	Yes	No	No	Yes	0
Langley	Barbara	BC	3546	White	W	W					2	No	No	No	No	0
* Lin	Robert	PG	CT 83-1129	Other	U						1	No	No	No	Yes	0
Little	Tyrone	BA	18403103	Black	B						1	Yes	No	No	Yes	0
Littlejohn	Kenneth	BA	18029007	Black	B						1	No	No	No	Yes	0
Lodowski	Kenneth	PG	CT 83-284	White	B						1	Yes	No	No	Yes	0
Lodowski	Kenneth	PG	CT 83-284	White	W						1	Yes	Yes	No	Yes	2
Louis	Joseph	AA	27132	Black	W						1	Yes	No	No	Yes	0
Lucas	Ralph	PG	CT 82-1005A	Black	B	B					2	No	No	No	Yes	0
Luckey	Paul	PG	CT 81-123	Black	B						1	Yes	No	No	Yes	0
Mack	Arthur	WA	5737	Black	B						1	No	No	No	Yes	0
Mack	Kenneth	BA	18500401	Black	B						1	No	No	No	No	0
Maddox	David	BA	18219529	Black	B						1	No	No	No	Yes	0
Mann	Edward	MO	28634	Black	O	U	U				3	Yes	No	No	Yes	0
Mansfield	Joseph	AA	24015	White	W						1	No	No	No	Yes	0
Marshall	Larry	WO	6108	Black	B						1	No	No	No	No	0
Martin	Earl	PG	CT 82-298A	White	B						1	No	No	No	Yes	0
Martin	Robert	BA	18015403	White	W						1	No	No	No	Yes	0
Mason	Kathryn	BC	PS-14	White	W						1	No	No	No	No	0
Massey	Terrance	PG	CT 83-143B	Black	W						1	Yes	No	No	Yes	0
Matthews	Andre	BA	18522001	Black	B						1	Yes	No	No	Yes	0
Matthews	Warner	BA	18607101	Black	B						1	No	No	No	No	0
Mayers	Dwayne	BC	23921	Black	W						1	Yes	Yes	No	No	1
Mayers	Dwayne	BC	68759B	Black	B						1	Yes	No	No	Yes	0
Maziarz	Donald	PG	CT 82-1458A	Black	B						1	Yes	Yes	No	No	2
McCallum	Shane	BA	17834204	White	W						1	No	No	No	No	0
McClung	Virgil	PG	CT 81-217C	White	W						1	No	No	No	No	0
McCoy	Charles	HO	10172	White	W						1	No	No	No	No	0
McCullough	Anthony	BA	17821611	Black	B						1	No	No	No	No	0
McKenny	Shawn	BA	18605148	White	W						1	No	No	No	No	0
McMillian	Ricky	BA	18332006	Black	B						1	No	No	No	No	0
McNair	James	BA	57831421	Black	B						1	No	No	No	Yes	0
McNeill	Calvin	BA	18121213	Black	B						1	No	No	No	No	0
Meador	Michael	PG	CT 82-235	White	W						1	Yes	No	No	No	0

Defendant Name		Charge		Race of		Race of Victim						Total				Total Capital
* (Last, First)		County	Charge Number	Defendant	#1	#2	#3	#4	#5	#6	Victims	Filed	Held	Death	Plea	Proceedings
Miller	Gary	AL	2346	White	W						1	Yes	Yes	No	No	1
Miller	Rudolph	BA	18208831	Black	B						1	No	No	No	No	0
Mills	Ervin	AA	25822	Black	B						1	Yes	No	No	Yes	0
Mills	Ralph I	BA	18203292	White	W						1	No	No	No	Yes	0
Mills	Ralph II	WA	2609	White	W						1	Yes	Yes	Yes	No	1
Mitchell	Isaiah	BA	18133631	Black	B						1	No	No	No	Yes	0
Mitchell	Stanley	BA	17927703	Black	W						1	No	No	No	No	0
Monroe	Curtis	MO	26242	Black	W						1	Yes	Yes	No	No	1
Moody	Dwayne	BA	18204902	Black	W						1	No	No	No	Yes	0
Moore	Mark	PG	CT 84-0855	Black	B	B					2	Yes	No	No	Yes	0
Moore	Mitchell	MO	39769	Black	W						1	Yes	Yes	No	No	1
Morgan	Lawrence	PG	CT 85-1167	Black	W						1	Yes	No	No	No	0
Morgereth	Timothy	BC	69186	White	W						1	No	No	No	No	0
Morris	Kenneth	BA	18134901	Black	W						1	No	No	No	Yes	0
* Morris	Wayne	CE	6461	Unknown	U						1	No	No	No	No	0
Morrison	Andrew	BA	18019035	Black	B	B					2	No	No	No	Yes	0
* Mouzone	Clarence	BA	17926712	Black	U	U					2	No	No	No	No	0
Mozingo	Fred	PG	CT 83-9018	White	W						1	Yes	No	No	Yes	0
Murphy	Ricco	AA	24344	Black	B						1	No	No	No	Yes	0
Myers	Robert	CR	6364	White	W						1	Yes	Yes	No	No	1
Neal	Eric	PG	CT 85-508A	Black	W						1	Yes	Yes	No	Yes	1
Nettles	Eric	AA	25675	White	W						1	No	No	No	No	0
* O'Neill	David	PG	CT 84-264	White	U						1	Yes	No	No	Yes	0
Offutt	Raymond	MO	27490	Black	W						1	Yes	No	No	Yes	0
Oliver	Dean	HO	9878	Black	W						1	Yes	Yes	No	No	1
Owens	Joseph	BA	17907344	Black	B						1	No	No	No	No	0
Owens	Michael	AA	27447	Black	B						1	No	No	No	No	0
Oxendine	Bobby	BA	18203289	Other	W						1	No	No	No	Yes	0
Pannel	Andre	PG	CT 82-115	Black	B						1	No	No	No	Yes	0
Parker	Herschel	AA	26113	Black	W						1	Yes	Yes	No	No	1
Parker	William	PG	CT 19612	White	W						1	Yes	Yes	No	No	1
Parmely	Jeffrey	BA	18401101	Black	B						1	No	No	No	Yes	0
Paschall	Joseph	BA	18508504	White	W	W					2	No	No	No	No	0
Peffer	Arthur	BC	PG-35	White	W						1	No	No	No	No	0
Pendleton	Lenard	BA	18425702	Black	W						1	No	No	No	Yes	0
Peterkin	Tyrone	BA	18305504	Black	B						1	No	No	No	No	0
Plummer	Morris	WA	8074	White	B						1	Yes	No	No	Yes	0
* Poillot	Raymond	PG	CT 20650A	Unknown	W						1	Yes	No	No	Yes	0
Pointer	Matthew	BA	18534623	Black	W						1	No	No	No	No	0
Poole	Timothy	AA	8065	Black	W						1	Yes	Yes	No	No	3
Pope	Ann	BA	17927803	Black	B	B					2	No	No	No	Yes	0
Porter	James	FR	4749	White	W						1	Yes	Yes	No	No	1
Pouncy	Beverly	HO	11066	White	W						1	No	No	No	No	0
Powell	Robert	BA	18400406	Black	B						1	No	No	No	No	0
* Prescott	John	PG	CT 81-1596A	Black	U						1	No	No	No	Yes	0
Preston	Richard	BC	82 CR 1467	Black	B						1	No	No	No	Yes	0
Preston	Rudolph	PG	CT 84-1103A	Black	B						1	Yes	No	No	Yes	0
Proctor	Maurice	BA	18533105	Black	B						1	No	No	No	No	0
Pruitt	Rickey	BC	85 CR 2054	White	W						1	Yes	Yes	No	No	1
Purnell	Bryant	BA	18135016	Black	B						1	No	No	No	No	0
Queen	Leon	BA	18410017	Black	B						1	No	No	No	Yes	0

Defendant Name * (Last, First)	Charge County	Charge Number	Race of Defendant	Race of Victim						Total				Total Capital Proceedings	
				#1	#2	#3	#4	#5	#6	Victims	Filed	Held	Death		Plea
Quetel	Anne	AA	31006	White	W					1	No	No	No	Yes	0
Quickley	Bryan	HA	7394A	Black	W					1	Yes	Yes	No	No	1
Rainsford	Kevin	PG	CT 83-378A	Black	O					1	Yes	No	No	Yes	0
Reed	James	BA	18400408	Black	B					1	No	No	No	No	0
Reese	Carl	BA	18103720	Black	B					1	No	No	No	Yes	0
Reese	Phillip	PG	CT 84-5868	Black	B					1	Yes	No	No	Yes	0
Reid	Willie	BA	18318808	Black	W					1	Yes	Yes	Yes	No	1
Rezek	Roberto	GA	1472	White	W					1	Yes	Yes	No	No	1
Richardson	James	BA	18330707	Black	B					1	No	No	No	No	0
* Ristick	John	BC	85 CR 1469	Other	B					1	No	No	No	No	0
Roberson	Jettie	BA	18404604	Black	B	B				2	No	No	No	Yes	0
Roberts	James	AA	25532	White	W					1	No	No	No	Yes	0
Rockingham	Herman	PG	CT 84-1289B	Black	W					1	Yes	No	No	Yes	0
Ross	James	BA	17922941	Black	B					1	No	No	No	Yes	0
Rowe	Joe	AA	27894	White	W	W				2	No	No	No	No	0
Ruscoe	Boyd	PG	CT 84-1337	White	W	W				2	Yes	No	No	Yes	0
Sailes	George	BA	18528301	Black	B					1	No	No	No	Yes	0
Sails	Harlow	PG	CT 82-352	Black	B					1	Yes	Yes	No	No	1
Sanders	Steven	BA	18412419	Black	W					1	No	No	No	No	0
Sanner	Charles	AA	22379	White	W					1	No	No	No	Yes	0
Saunders	Mark	PG	CT 85-1253A	Black	O					1	No	No	No	Yes	0
Savalino	Joseph	AA	24051	White	W					1	No	No	No	No	0
Schindler	Michael	BA	18001108	White	W	W				2	No	No	No	Yes	0
Schroen	Guy	BC	85 CR 527	Black	B					1	Yes	Yes	No	Yes	1
Scott	Cedric	BA	17907343	Black	B					1	No	No	No	No	0
Scott	Leonard	BA	18035022	Black	W					1	No	No	No	Yes	0
Scott	Martin	BA	18035703	Black	O					1	Yes	No	No	Yes	0
Scott	Martin	BA	18035413	Black	B					1	Yes	Yes	Yes	No	2
Shade	Steven	PG	CT 82-222	White	W	W				2	No	No	No	No	0
Sharp	Charles	BC	86 CR 0499	White	W					1	No	No	No	No	0
Shorter	Darnell	BA	18301715	Black	B					1	No	No	No	Yes	0
Shorter	Darnell	BA	18301718	Black	B					1	No	No	No	Yes	0
Siddons	Richard	BA	18414502	White	W					1	No	No	No	Yes	0
Simmons	Henry	BA	18403438	Black	B					1	No	No	No	No	0
Simmons	Larry	BC	68503	Black	B	B				2	No	No	No	No	0
Simmons	Lascelle	BA	PS-42	Black	B					1	Yes	No	No	No	0
Singletary	James	BA	18302005	White	B					1	No	No	No	No	0
Singletary	Jerome	BA	18507801	Black	B	B				2	No	No	No	No	0
* Slaughter	Derek	BA	18130617	Black	U					1	No	No	No	Yes	0
Small	Richard	BA	18121107	Black	B					1	No	No	No	Yes	0
* Smallwood	Dameron	BC	84 CR 3997	Unknown	U					1	No	No	No	No	0
Smith	Al	BA	18232620	Black	B					1	No	No	No	No	0
Smith	Frankie	BC	PS-54	Black	B					1	No	No	No	No	0
Smith	Kenneth	AA	30922	White	W					1	No	No	No	No	0
* Smith	Phillip	BA	18109708	Black	U					1	No	No	No	No	0
* Sneed	Roosevelt	BA	17914547	Black	U					1	No	No	No	No	0
* Snowden	Elmer	AA	31528	Black	U					1	No	No	No	No	0
Snyder	David	HO	PS-37	White	W					1	No	No	No	Yes	0
Snyder	David	BA	28610101	White	W					1	No	No	No	Yes	0
Souffie	Diane	CE	2198	White	W					1	No	No	No	Yes	0
Southall	Jeffrey	BA	18412307	Black	B					1	No	No	No	No	0

Defendant Name	Charge	Race of	Race of Victim	Total	Total Capital						
* (Last, First)	County Charge Number	Defendant	#1 #2 #3 #4 #5 #6	Victims Filed Held Death Plea	Proceedings						
Southall	Michael	MO	27902	Black	B	1	No	No	No	No	0
* Speaks	Jerry	PG	CT 82-64A	Black	U	1	No	No	No	Yes	0
Stanback	Alonzo	BA	17822629	Black	B	1	No	No	No	Yes	0
* Stanfield	Charles	BA	18108925	Black	U U	2	No	No	No	No	0
Stebbing	Annette	HA	7681	White	W	1	Yes	Yes	No	No	2
Stevens	Ronald	BA	18609803	White	W	1	No	No	No	Yes	0
Stewart	Michael	MO	PS-43	Black	W	1	No	No	No	No	0
Stewart	Robert	BA	18131003	Black	B	1	No	No	No	No	0
Stewart	Steven	BA	18027549	Black	B	1	No	No	No	Yes	0
Sturgis	Glen	WI	9871	Black	B	1	Yes	Yes	No	No	1
Sutton	George	BA	18528307	Black	B	1	No	No	No	No	0
Swartz	Lawrence	AA	28489	White	W W	2	No	No	No	Yes	0
Teal	Michael	BA	18403433	Black	O	1	No	No	No	No	0
Thomas	Donald	BC	76021	Black	W W	2	Yes	Yes	Yes	No	1
Thomas	Nathan	BC	72375	White	W	1	Yes	Yes	Yes	No	1
Thomas	Terry	HO	12798	Black	B	1	Yes	Yes	No	No	1
Thompson	Anthony	BA	PS-8	White	W W	2	No	No	No	Yes	0
Thompson	Donald	BA	18131427	Black	W	1	Yes	Yes	No	No	1
Thrower	Clarence	BA	18234306	Black	B	1	No	No	No	Yes	0
Tibbs	Mark	BA	18534624	Black	W	1	No	No	No	No	0
Tichnell	Richard	GA	9990	White	W	1	Yes	Yes	Yes	No	3
Tillman	John	BA	18007753	Black	W	1	No	No	No	Yes	0
Tonasek	Frank	BA	18212610	White	W	1	No	No	No	Yes	0
Torrence	Gregory	BA	18119514	Black	B	1	No	No	No	No	0
Trimble	James	BC	74841	White	W	1	Yes	Yes	Yes	No	1
* Troxell	Darryl	FR	8022	Unknown	U	1	No	No	No	No	0
Tucker	Honore	BA	18601009	Black	B	1	No	No	No	No	0
Turner	William	BC	PS-35	White	B	1	Yes	No	No	No	0
Ushry	Wyman	BA	18335601	Black	B	1	No	No	No	No	0
Visvatti	David	WA	8740	White	W	1	No	No	No	No	0
* Walker	Anthony	PG	CT 82-1214C	Black	U	1	Yes	No	No	Yes	0
Walker	Oscar	BA	18529601	Black	W	1	Yes	No	No	Yes	0
Wallace	Timothy	BA	18533103	Black	B	1	No	No	No	No	0
Waller	Henry	PG	CT 84-907	Black	B	1	Yes	No	No	Yes	0
Walmsley	Gregory	MO	37122	White	W	1	Yes	No	No	Yes	0
Waltermeyer	James	BC	82 CR 1642	White	W	1	Yes	Yes	No	No	1
Ward	Andre	BA	18601010	Black	B	1	No	No	No	No	0
Warthen	Marando	BA	18414213	Black	B B	2	No	No	No	No	0
Watson	Milton	BA	18301309	Black	W	1	No	No	No	Yes	0
Wersick	Paul	MO	21239	White	W	1	No	No	No	No	0
White	Derrick	SC	75226	Black	W	1	Yes	Yes	Yes	No	1
Whittle	Barbara	BA	17928816	Black	B	1	No	No	No	Yes	0
Wiener	Theodore	AA	66020	White	W	1	Yes	Yes	No	No	1
Wilkerson	Kevin	PG	CT 85-1254A	Black	B	1	Yes	No	No	No	0
Wilkinson	Guy	WA	7335	White	W	1	No	No	No	Yes	0
Williams	Curtis	BA	17918652	Black	B	1	No	No	No	Yes	0
Williams	Darnell	BA	18007403	Black	B	1	No	No	No	Yes	0
Williams	Marshall	PG	CT 81-9108	Black	B	1	No	No	No	Yes	0
Wilson	Phillip	BA	18325918	Black	B	1	No	No	No	Yes	0
Woodland	John	BA	18026102	Black	B B	2	No	No	No	No	0
Wooten-Bey	Ronald	PG	CT 83-1497C	Black	B	1	Yes	Yes	No	No	1

Defendant Name		Charge		Race of	Race of Victim						Total:				Total Capita.	
* (Last, First)		County	Charge Number	Defendant	#1	#2	#3	#4	#5	#6	Victims	Filed	Held	Death	Plea	Proceedings
Wragg	Kevin	BA	18513501	Black	B						1	No	No	No	Yes	0
Wyre	Leroy	AA	23763	Black	W						1	No	No	No	Yes	0
Yancey	Herbert	BA	18327806	Black	B						1	No	No	No	Yes	0
Yumans	Norman	BA	18008628	Black	W						1	No	No	No	No	0
Young	Donald	PG	CT 83-439	White	W						1	No	No	No	No	0
Young	Earl	BA	18502406	Black	B						1	No	No	No	No	0
Young	Fitzroy	BA	18621901	Black	B	B	B	B	B		5	No	No	No	No	0
Young	Leon	MO	33766	Black	B						1	No	No	No	No	0
Yovells	Harry	AA	22679	White	W						1	No	No	No	Yes	0

APPENDIX B: MARYLAND CAPITAL PROCEEDINGS HELD

Defendant	Date of Offense	Original Jurisdiction	Trial Jurisdiction	Date of Sentence	Sentencing Authority	Sentence Imposed	Appellate Ruling
William J. Parker	8/28/78	Pr. Geo.	St. Mary's	5/15/79	Jury	Life	
James T. Porter	11/1/78	Frederick	Anne Arundel	10/15/79	Jury	Life	
Dwayne T. Mayers	1/9/79	Balt. Co.	Anne Arundel	10/22/80	Jury	Life	
Lawrence Johnson I	1/9/79	Balt. Co.	Harford	10/5/82	Jury	Death	Vac'd.
Lawrence Johnson II	1/9/79	Balt. Co.	Harford	2/18/84	Jury	Death	Aff'd.
Roberto Rezek	1/18/79	Garrett	Washington	1/28/80	Jury	Life	
Richard D. Tichnell I	1/18/79	Garrett	Wicomico	8/24/79	Judge	Death	Vac'd.
Richard D. Tichnell II	1/18/79	Garrett	Wicomico	8/20/80	Jury	Death	Vac'd.
Richard Tichnell III	1/18/79	Garrett	Calvert	1/21/82	Jury	Death	Aff'd.
Glen Sturgis	1/25/79	Wicomico	Wicomico	6/7/79	Jury	Life	
Theodore S. Wiener	3/28/79	Anne Arundel	Balt. Co.	3/17/80	Judge	Life	
Harold Hines	3/28/79	Pr. Geo.	Pr. Geo.	7/12/83	Jury	Life	
Daniel Chadderton	8/29/79	Carroll	Garrett	5/11/82	Jury	Life	
Robert L. Myers	8/29/79	Carroll	Carroll	12/9/82	Judge	Life	

Defendant	Date of Offense	Original Jurisdiction	Trial Jurisdiction	Date of Sentence	Sentencing Authority	Sentence Imposed	Appellate Ruling
Bryan K. Quickley	9/27/79	Harford	Harford	11/6/80	Judge	Life	
Timothy C. Poole I	10/22/79	Anne Arundel	Calvert	6/5/80	Jury	Death	Rev'd.
Timothy C. Poole II	10/22/79	Anne Arundel	Charles	2/26/82	Jury	Death	Vac'd.
Timothy C. Poole III	10/22/79	Anne Arundel	Charles	5/6/83	Jury	Life	
Lawrence Johnson I	2/23/80	Balt. Co.	Calvert	1/30/81	Jury	Death	Vac'd
Lawrence Johnson II	2/23/80	Balt. Co.	Calvert	9/1/82	Judge	Life	
Elvis Horton	3/2/80	Balt.City	Balt.City	1/3/81	Jury	Life	
Annette Stebbing I	4/9/80	Harford	Harford	4/28/81	Judge	Death	Aff'd
Annette Stebbing II	4/9/80	Harford	Harford	11/7/85	Judge	Life	
Eugene S. Colvin	9/9/80	Balt. Co.	Anne Arundel	8/20/81	Jury	Death	Aff'd
Dean H. Oliver	11/22/80	Howard	Howard	6/23/81	Jury	Life	
Martin F. Scott I	11/25/80	Balt. City	Balt.City	11/6/81	Jury	Death	Vac'd.
Martin F. Scott II	11/25/80	Balt. City	Balt.City	2/5/85	Jury	Death	Vac'd.
Nathan R. Thomas	1/10/81	Balt. Co.	Balt. Co.	8/17/81	Jury	Death	Suicide
Doris Ann Foster I	1/29/81	Cecil	Cecil	2/8/82	Judge	Death	Rev'd.
Doris Ann Foster II	1/29/81	Cecil	Cecil	4/4/84	Jury	Death	Aff'd
Gary A. Miller	2/25/81	Allegany	Allegany	11/16/81	Judge	Life	

Defendant	Date of Offense	Original Jurisdiction	Trial Jurisdiction	Date of Sentence	Sentencing Authority	Sentence Imposed	Appellate Ruling
Jackie Hughes	3/2/81	Montgomery	Montgomery	3/1/82	Jury	Life	Aff'd.
Willie L. Green	3/20/81	Balt. City	Balt. City	1/14/82	Jury	Life	
Ronald L. Johnson	3/24/81	Balt. Co.	Balt. Co.	4/8/82	Judge	Life	
James A. Calhoun	3/27/81	Mont.	Mont.	11/6/81	Jury	Death	Aff'd.
Curtis Monroe	3/27/81	Mont.	Mont.	9/20/82	Judge	Life	Aff'd.
Vincent T. Greco	4/17/81	Balt. Co.	Balt. Co.	5/14/82	Judge	Life	Aff'd.
John N. Huffington I	5/25/81	Harford	Caroline	12/2/81	Jury	Death	Rev'd.
John N. Huffington II	5/25/81	Harford	Frederick	4/1/84	Jury	Death	Aff'd.
James R. Trimble	7/3/81	Balt. Co.	Balt. Co.	3/19/82	Judge	Death	Aff'd.
Marselle J. Bowers I	7/8/81	Somerset	Charles	10/22/82	Jury	Death	Vac'd.
Marselle J. Bowers II	7/8/81	Somerset	Charles	10/25/84	Jury	Death	Aff'd.
Jackie K. Harris I	8/9/81	Balt. Co.	Balt. Co.	4/5/82	Judge	Death	Vac'd.
Jackie K. Harris II	8/9/81	Balt. Co.	Balt. Co.	7/22/83	Jury	Death	Vac'd.
Jackie K. Harris III	8/9/81	Balt. Co.	Harford	3/27/87	Jury	Death	Vac'd.
Derrick Q. White	8/14/81	Balt. Co.	Balt. Co.	2/26/82	Jury	Death	Aff'd.
Donald Thomas	10/2/81	Balt. Co.	Balt. Co.	12/13/82	Judge	Death	Aff'd.
Donald Thompson	10/15/81	Balt. City	Balt. City	6/28/82	Jury	Life	Aff'd.

Defendant	Date of Offense	Original Jurisdiction	Trial Jurisdiction	Date of Sentence	Sentencing Authority	Sentence Imposed	Appellate Ruling
Clinton W. Ellison	10/25/81	Balt. City	Balt. City	1/19/83	Jury	Life	
Herschel Parker	12/14/81	Anne Arundel	Anne Arundel	9/29/82	Judge	Life	
Michael S. Allen	12/21/81	Anne Arundel	Anne Arundel	2/3/82	Judge	Life	
James A. Fields	12/31/81	Pr. Geo.	Pr. Geo.	10/8/82	Jury	Life	
Harlow B. Sails	2/8/82	Pr. Geo.	Pr. Geo.	3/31/82	Jury	Life	
John K. Johnson	2/20/82	Pr. Geo.	Pr. Geo.	11/19/82	Jury	Life	
James S. Waltermeyer	3/29/82	Balt. Co.	Balt. Co.	3/4/83	Jury	Life	
Jack R. Jones	4/3/82	St. Mary's	Balt. Co.	10/14/82	Jury	Life	
Robert L. Brantner	9/9/82	Washington	Garrett	5/3/83	Jury	Life	
Donald Maziarz I	11/24/82	Pr. Geo.	Pr. Geo.	1/24/84	Judge	Death	Vac'd.
Donald Maziarz II	11/24/82	Pr. Geo.	Pr. Geo.		Judge	Life	
Vernon Evans	4/28/83	Balt. Co.	Worcester	5/15/84	Jury	Death	Aff'd.
Anthony Grandison	4/28/83	Balt. Co.	Somerset	6/6/84	Jury	Death	Aff'd.
John Booth	5/20/83	Balt. City	Balt. City	10/18/84	Jury	Death	Vac'd.
Willie Reid	5/20/83	Balt. City	Balt. City	7/31/84	Jury	Death	Vac'd.
Kenneth Lodowski	6/11/83	Pr. Geo.	Charles	1/6/84	Judge	Death**	Rev'd.

** Sentences of death so marked were subsequently negotiated to life sentences.

Defendant	Date of Offense	Original Jurisdiction	Trial Jurisdiction	Date of Sentence	Sentencing Authority	Sentence Imposed	Appellate Ruling
Kamel ElFadl	6/11/83	Pr. Geo.	Calvert	3/31/84	Jury	Life	
Julius S. Bailey	12/2/83	Pr. Geo.	Pr. Geo.	11/7/84	Jury	Life	
Clinton Ellison	12/3/83	Balt. City	Balt. City	7/25/84	Jury	Life	
Harry Dungan	12/30/83	Balt. Co.	Balt. Co.	1/28/85	Judge	Life	
Terry Thomas	1/5/84	Howard	Howard	10/4/84	Jury	Life	
Kirk N. Bloodsworth I	7/25/85	Balt. Co.	Balt. Co.	3/27/85	Judge	Death	Rev'd.
Kirk N. Bloodsworth II	7/25/85	Balt. Co.	Balt. Co.	6/ /87	Judge	Life	
Ralph Mills	8/6/84	Washington	Allegany	3/8/85	Jury	Death	Aff'd.
Gregory Jones	10/20/84	Balt. Co.	Balt. Co.	5/13/84	Jury	Death	Aff'd.
Glenn Goodman	12/6/83	Pr. Geo.	Pr. Geo.	8/12/85	Jury	Life	
Reuben Jackson	9/9/84	Pr. Geo.	Pr. Geo.	10/3/85	Jury	Death**	
Mitchell Moore	10/12/84	Mont.	Mont.	1/12/87	Jury	Life	
Kenneth Guinyard	11/19/84	Pr. Geo.	Pr. Geo.	3/4/86	Judge	Life	
Ricky Pruitt	4/16/85	Balt. Co.	Balt. Co.	1/21/86	Jury	Life	
Eric Neal	4/2/85	Pr. Geo.	Pr. Geo.	1/21/86	Judge	Life	
Guy Schroen	1/1/85	Balt. Co.	Balt. Co.	12/9/85	Judge	Life	
Michael Chew	1/1/85	Calvert	Charles	2/4/86	Jury	Life	

Defendant	Date of Offense	Original Jurisdiction	Trial Jurisdiction	Date of Sentence	Sentencing Authority	Sentence Imposed	Appellate Ruling
Clifton Jones	5/4/85	Pr. Geo.	Pr. Geo.	4/28/86	Jury	Life	
Kenneth Billups I	8/23/85	Balt. Co.	Balt. Co.		Jury	Death	Vac'd.
Kenneth Billups II	8/23/85	Balt. Co.	Balt. Co.	6/14/86	Jury	Life	
Flint G. Hunt	11/18/85	Balt. City	Balt. City	7/2/86	Jury	Death	
Leonard Cirincione	6/12/86	Balt. City	Balt. City	5/21/87	Judge	Life	
Al Doering	10/2/86	Balt. Co.	Balt. Co.	6/29/87	Jury	Death	
Jentry Hook	10/11/86	Balt. Co.	Balt. Co.	5/21/87	Jury	Life	
Robert Bedford	11/2/86	Balt. Co.	Balt. Co.	6/10/87	Jury	Death	
Ronald Wooten-Bey	10/2/83	Pr. Geo.	Pr. Geo.	11/ /87	Jury	Life	

1. DECISION OF PROSECUTOR TO SEEK DEATH PENALTY

2. TRIAL - CIRCUIT COURT

2A. Not guilty of
Capital Offense

2B. Guilty of Capital Offense

3. SEPARATE SENTENCING HEARING

3A. Life Imprisonment

3B. Death

4. REVIEW BY COURT OF APPEALS
OF SENTENCE AND CONVICTION

4A. Reverse Conviction
(Begin Again at 2)

4B. Affirm Conviction But
Mandate Life Sentence

4C. Affirm Conviction But Remand For
Resentencing (Begin again at 3)

4D. Affirm Conviction
and Sentence

5. PETITION FOR CERTIORARI
U.S. SUPREME COURT

5A. Cert. Granted
Case Argued in Supreme Court

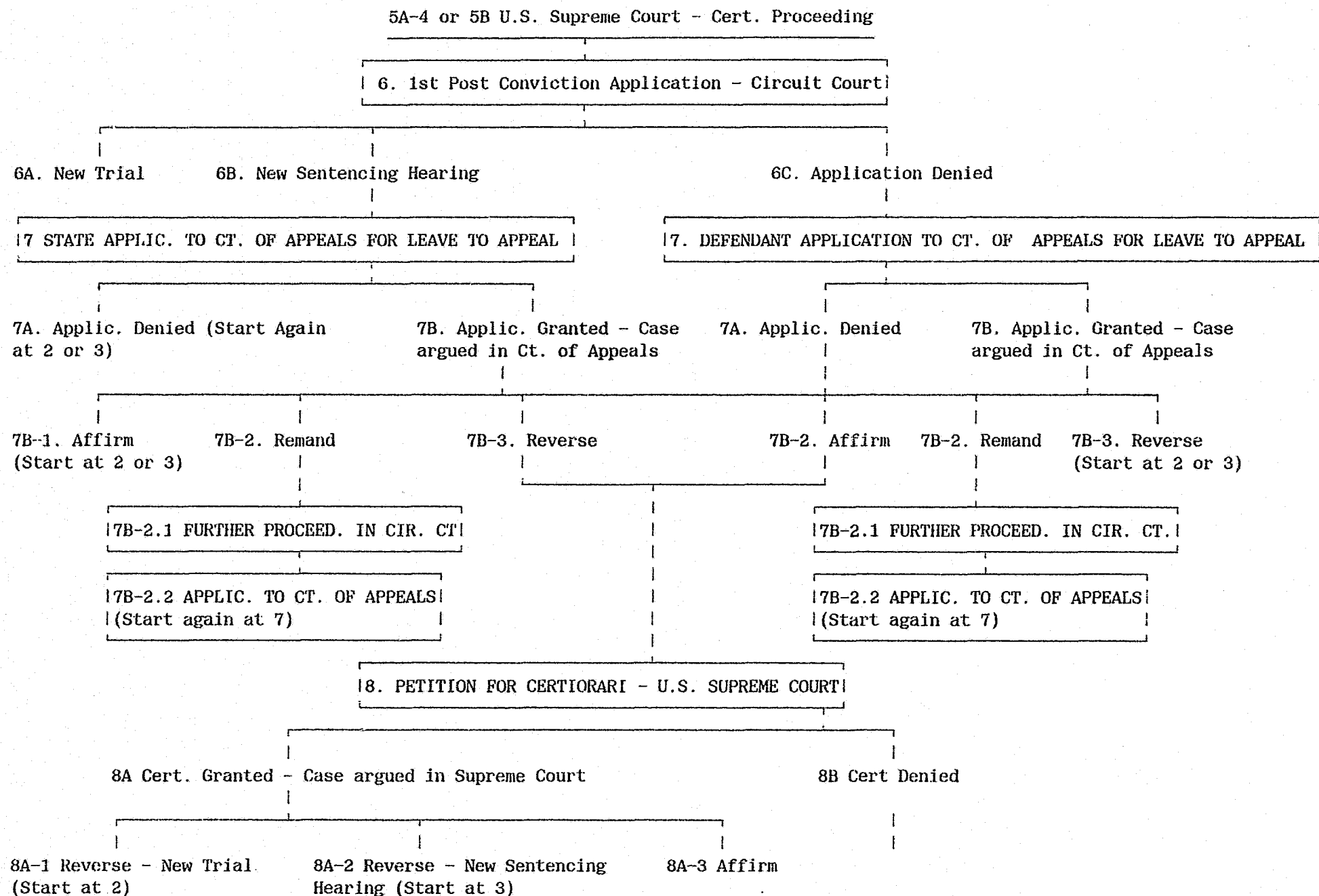
5B Cert. Denied

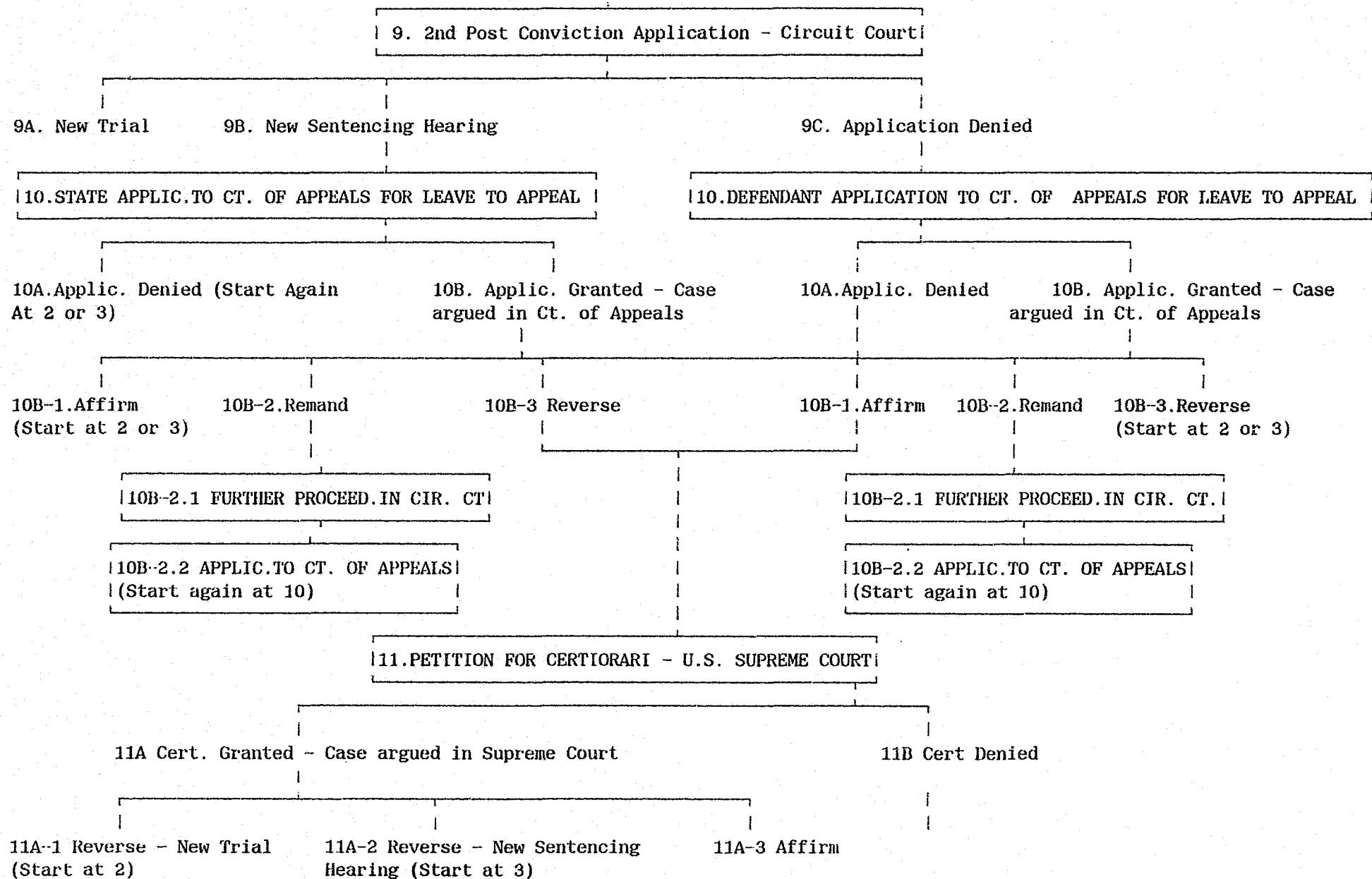
5A-1. Reverse Conviction.
(Begin Again at 2)

5A-2. Affirm Conviction but
Mandate Life Sentence - 3A

5A-3. Affirm Conviction but
Remand for Resentencing

5A-4. Affirm
Conviction and
Sentence





11A or 11B: U.S. Supreme Court - Cert. Proceeding

12. PETITION FOR HABEAS CORPUS - U.S. DISTRICT COURT

12b Petition Granted (New Trial)

12B Petition Granted (New Sentencing Hearing)

12C Petition Denied

13 STATE APPEAL TO 4TH CIRCUIT COURT OF APPEAL

13 DEFENDANT PETITION TO 4TH CIRCUIT COURT OF APPEALS

13A Affirm
(Seek en banc
or start again
at 2 or 3)

35B Remand
(Seek en banc
or start again
at 2 or 3)

13C Reverse

13A Affirm

13B Remand
(Seek en banc
or start again
at 2 or 3)

13C Reverse
(Seek en banc
or start again
at 2 or 3)

14. PETITION FOR EN BANC REVIEW
BY 4TH CIR. CT. OF APPEALS

14a. Petition Denied or Panel Decision Affirmed

14B Panel Decision Reversed (Refer to Options under 13)

15. PETITION FOR CERTIORARI - U.S.S. SUPREME COURT

15A. Cert. Granted -- Case Argued in Supreme Court

15B. Cert. Denied

15A-1. Order Dist. Ct. to
Issue Writ (Start again at
2 or 3)

15A-2. Remand to Dist Ct.
(Start again at 12)

15A-3. Affirm
Denial of writ

15a-3 or 15B: U.S. Supreme Court Certiorari Proceeding

16. PETITION FOR COMMUTATION ALLEGING INSANITY
(GOVERNOR OR CIRCUIT COURT)

16A. Petition Denied

16B. Petition Granted -
Sentence commuted to life imprisonment

17. APPLICATION TO COURT OF APPEALS FOR LEAVE TO APPEAL

17A. Application Denied

17B. Application Granted - Case Argued in Ct. of Appeals

17B-1. Cir. Ct. Affirmed.

17B-2. Remand
(Start at 16)

17B-3 Cir. Ct. Reversed. Sentence
commuted to life imprisonment

18. PETITION FOR CERTIORARI - U.S. SUPREME COURT

18a. Cert. granted - case argued in Supreme Court

18B Cert. denied

18A-1. Reverse. Sentence
commuted to life
imprisonment

18A-2 Remand. Start
at 16 or 17

18A-3. Affirm

18A-3 or 18B - U.S. Supreme Court Proceedings

19 PETITION FOR HABEAS CORPUS, U.S. DISTRICT COURT

19a Petition Granted - Remand
to State Court

19B Petition Granted -
Defendant declared insane

19C Petition Denied

20. STATE APPEAL TO FOURTH
CIRCUIT COURT OF APPEALS

20. DEFENDANT APPEAL TO FOURTH
CIRCUIT COURT OF APPEALS

20A. Affirm

20B. Remand

20C. Reverse.

20A. Affirm

20B. Remand

20C. Reverse

21. PETITION FOR EN BANC REVIEW BY FOURTH
CIRCUIT COURT OF APPEALS

21A. Petition Denied or Panel
Panel Decision Affirmed

21B. Panel Decision Reversed
(Refer to Options Under 20).

22. PETITION FOR CERTIORARI, U.S. SUPREME COURT

22A. Cert. Granted - Case Argued in Supreme Court

22B. Cert. denied

22A-1. Order to District
Court to issue writ

22A-2. Remand to
Dist. Ct. (Start
at 19)

22A-3. Affirm.

PETITION TO GOVERNOR FOR CLEMENCY

APPENDIX C

A CAPITAL MYTH: KOKO AT BAY
Rule Day Club
March 9, 1987

By Alan M. Wilner
Associate Judge
Court of Special Appeals of Maryland

This being my first presentation to the Rule Day Club, I have given a lot of thought to the choice of a topic, settling finally on one that is both ancient and current -- one which I hope you will find of interest.

The topic is capital punishment, but I do not propose to discuss it in the traditional format. For purposes of this presentation, I shall assume, and ask you to accept, that it is not inherently immoral for the State to impose capital punishment for selected types of first degree murder, and that the current Maryland death penalty law is Constitutional.

My thesis, which proceeds from the point more gingerly made by Chief Judge Murphy in his recent State of the Judiciary Address to the General Assembly, is as follows. Capital punishment in Maryland is now, for the last 26 years has been, and for the foreseeable future will be, a myth -- an expensive, unproductive myth. We have a capital punishment law, but we do not have capital punishment. The public, I posit, is being seriously deluded into supposing that the law which it seemingly supports will one day soon be applied in the manner it expects. In my judgment, it will not.

There are, of course, many laws on the books that are either ill-advised in concept or that do not work the way their authors intended. Most eventually get changed or repealed; some are allowed to amble along on the theory that at least they don't hurt anyone. Were it not for the enormous mal-investment of scarce fiscal and human resources occasioned by the death

penalty law, that might one worth leaving along, so the people in support of it may continue to think they have what they want, but no one will actually be put to death.

I suggest, however, that, in Maryland (if not in other States), the cost of pursuing this largely fruitless course, not just in terms of money, but, more importantly, in the commitment of judicial resources, has become so high that public attention should be directed to the reality of the situation. I shall return to this later.

First, let me give you a little history.

Except for a brief hiatus in the mid-1970's, when the Legislature was struggling to fashion a bill that would pass Constitutional muster, capital punishment has been part of the Maryland law since the founding of the province in 1634. It was not, however, frequently used, even when available for an extended variety of crimes and imposable at the discretion of the sentencing judge.

As most of you may know, there has been no execution in Maryland since June 5, 1961, when Nathaniel Lipscomb, a mentally deficient man with an IQ of 57, was put to death. In the 38-year period preceding that execution-- i.e., from 1923 to 1961 -- 79 people were executed, an average of just over two a year. If we discount the 27 men executed for rape, which is no longer Constitutionally permissible, we find 52 people executed for murder over the 38-year period -- an average of less than two a year.

In 1962, a Committee appointed by the Legislative Council made a study of capital punishment as practiced in Maryland since 1936. It was a comprehensive study, and the results are quite interesting. The Report shows, for example, that during the 25-year period studied, 122 people were

sentenced to death -- 71 for murder and 51 for rape. Of those 122 people, only 57 -- less than 47% -- were actually executed (36 for murder, 21 for rape). The others either had their sentences commuted or received a new trial; two committed suicide.

Of particular interest is the fact that only seven of the 57 executions took place after 1950 -- three in the period 1951-55, three in the period 1955-60, and one in 1961. The "slaughter," such as it ever was, effectively ended in 1950.

Although one might think that sentiment for capital punishment would run stronger in the law-and-order rural areas of the State, the study revealed quite the contrary. In the 25-year period investigated, 75% of the death sentences imposed came from the Circuit Courts in Baltimore City and the metropolitan counties. Ten counties had imposed no capital sentences at all and six more had imposed three or less.

Racial bias was clearly suspect. Of the 122 people sentenced to death, 97 (80%) were black and 25 were white. Of the 57 actually executed, 47 (82%) were black and 10 were white.

One final statistic is worthy of mention. For the 57 men actually executed, the average length of time elapsing between imposition of sentence and execution was 220 days -- just over seven months. Justice was expected to be swift. Indeed, in 1950, one Baltimore City judge became so incensed at the fact that Governor Lane had commuted a death sentence more than two years after its imposition that he cause a bill to be introduced into and passed by the next session of the Legislature removing the power to issue warrants of execution from the Governor and placing it in the hands of the sentencing judge.

The Legislative study, as I indicated, was completed in 1962, which happened to coincide with the end of actual capital punishment in Maryland. In the 11 years that elapsed between the execution of Nathaniel Lipscomb and the wipeout of our death penalty law by the Supreme Court's assorted pronouncements in Furman v. Georgia, 37 people were sentenced to death. At least 13, and possibly 14, of those sentences were commuted by the various Governors or by court action; 23 were commuted by reason of Furman. Knowing the sentiments of Governors Mandel, Lee, and Hughes on the death penalty, it is probably fair to suggest that, had the 23 sentences not been commuted by virtue of Furman, they, or at least most of them, would likely have been commuted at some point by other means.

Our history, then, clearly since 1961, is that, despite the existence of a capital punishment law and continuous public support for that law, Maryland has not, in fact, practiced capital punishment. Its use, going back even to 1923, has been sparing at best -- less than two a year for murder in the heyday.

When one looks at the actual dispositions of these death penalty cases, it becomes evident that the historic nonimplementation of the law cannot be laid just -- or even significantly -- at the hands of the appellate courts. The facts show, rather, a reluctance on the part of most trial judges to impose the sentence and on the part of Governors, going back to Lane and McKeldin, to see it carried out.

Furman and its progeny have made the implementation of capital punishment even more problematic. The cases have had the dual effect of, first, sensitizing appellate judges -- State and Federal -- to the fact that the cases are different, in a class by themselves, requiring the closest

scrutiny, and, second, through the creation of new, complex procedural rights and constraints, making error-free proceedings nearly impossible. It was perhaps not surprising, then, that, in the first eight cases to reach the Court of Appeals, beginning with Tichnell in 1980, the Court vacated the conviction or the sentence in every one.

To demonstrate how utterly complex these cases have become, I have prepared a flow chart outlining the judicial roadmap of a death case. You will see that it reflects 23 discrete proceedings. In point of fact, I am advised by the Public Defender's office that I missed one step. In one case, they were able to persuade the sentencing judge to commute a death sentence to life imprisonment. Thus, it appears that motion to revise the sentence may be permissible after Step 3 and before Step 4, at least where the judge, rather than a jury, imposes the sentence. But, whether it is 23 or 24, even that is somewhat misleading, for, as in some of the popular parlor games, there are many trapdoors along the way that will cause parts of the process to be repeated, sometimes more than once.

We may start with Step 2 -- trial in the Circuit Court. This is not your ordinary criminal trial. The defendant is rarely represented by just one lawyer; where the Public Defender handles the case either in-house or by means of panel attorney, there are at least two lawyers assigned, and, if competence or responsibility is in issue, there are generally three lawyers involved. No stone is left unturned; voir dire is extensive; every aspect of the State's case is carefully tested; every imaginable theory of law is argued at every turn; every effort is made either to gain an acquittal or to inject trial error into the proceeding, or both. As a result, these cases, the underlying facts of which are often fairly straightforward, tend to

produce thousands of pages of transcript.

Upon conviction, the defendant is entitled to a separate sentencing hearing. This too is not your routine disposition proceeding. It is another full-blown trial, the issues being the assorted, aggravating and mitigating factors enumerated in the statute. Hundreds more pages of transcript are generated.

Just to give a few examples: The stenographer's bill in Huffington v. State was \$10,675, in Grandison, it amounted to \$8,000; in Foster (whose sentence was recently commuted by the Governor), the transcript costs were over \$6,200; in Thomas, they amounted to \$7,650; in Calhoun to over \$6,800; and in Stebbing (whose sentence was later commuted by the trial judge), to nearly \$5,800.

According to our Chief Judge, since the enactment of our current death penalty law in 1978, the State sought the death penalty in 192 cases. Its success rate was, to say the least, underwhelming; through attrition at various stages of the proceeding, only 26 people actually received the death sentence -- a success rate at the Circuit Court level of 13.5%.

If the State succeeds in its quest at the trial level, the case then goes to the Court of Appeals for automatic review of the sentence and virtually automatic review of the trial. Again, where the Public Defender is involved, as he is in nearly every case, at least two lawyers from the Appellate Division are assigned to the appeal. In addition to the normal issues reviewable on appeal, the law requires the Court to consider whether the sentence of death "is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant." This, of course, requires a comparative review of the case at bar with other

cases. To make this review possible, Md. Rule 4-343 requires the trial judge in every case reaching the sentencing phase to prepare a detailed report, no matter whether the sentence is life or death. A copy of a representative form is in the handout. Those reports serve as the basis for the proportionality review. Since the Rule went into effect, there have been 70 of these reports filed. Each judge of the Court of Appeals gets a copy of each report. As the inventory of cases grows, this mandated review is necessarily going to become more and more burdensome.

The initial appellate review has also, to date, been a significant stumbling block for the State. In the 21 cases reaching the Court on initial review of conviction and sentence, the State was successful in only nine; 12 resulted in new trials on guilt or innocence or new sentencing proceedings. Indeed, one defendant, Richard Tichnell, had his sentence vacated twice by the Court of Appeals. He has been sentenced to death three times.

If the State is successful at this initial review stage, there will be an automatic petition for certiorari to the Supreme Court. So far, all petitions but one have been denied. Last October, the Supreme Court granted the petition of John Booth and agreed to consider whether the admission at the sentencing proceeding of testimony concerning the impact of the crime on the victim's family violates the 8th and 14th Amendments. That kind of evidence is declared admissible by Maryland statute and is routinely offered; if the Supreme Court rules in favor of Booth, I am informed that nearly everyone now on death row may be entitled to new sentencing hearings, which would put them all back to Step 3.

I might add, parenthetically, that the Supreme Court has at least two

other cases, taken from other jurisdictions, that could have an impact on Maryland death row inmates. In one, already argued, the argument is made that the death penalty is far more likely to be imposed where the victim is white than non-white, which, say the petitioners, Constitutionally flaws the whole scheme. If the Court credits that argument, capital punishment may well be a matter of history in this country. In the second case, the Court is expected to determine whether the 8th Amendment precludes the death penalty where the defendant was under 18 when he committed the murder. If so, the death penalty imposed on Lawrence Johnson will be vacated.

If the defendant fails to convince the Supreme Court to act favorably at this juncture, he begins the collateral attacks under the Maryland Post Conviction Procedure Act. Until 1936, there was no limit on the number of petitions he could file. Each involves a determination by the Circuit Court, an application for leave to appeal to the Court of Appeals, and another petition for certiorari in the Supreme Court. See Steps 6-8 on page 2 of the flow chart. At least on the first petition, the defendant is entitled to counsel and a hearing. Since July 1986, subject to an inevitable Constitutional challenge, the defendant has been limited to two petitions under that Act. Assuming the validity of that limitation, the defendant then proceeds through Step 11 on page 3 of the flow chart.

One defendant, I might add, was temporarily successful at this stage. After the Court of Appeals, on the third go-around, affirmed the death sentence imposed on him, Mr. Tichnell was able to convince a Circuit Court judge that he was entitled to a fourth sentencing proceeding because his counsel at the third proceeding was incompetent. The Court of Appeals had apparently seen enough of Mr. Tichnell, however, and reversed the Circuit

Court. The Supreme Court, for the second time, denied Tichnell's ensuing petition for certiorari and his follow-up motion for rehearing.

Tichnell will now begin his trek through the Federal courts. See Steps 12 through 15. I am aware, of course, that the District Court can, to a large extent, rely on factual determinations made by the State courts and that there is no automatic right of appeal to the Fourth Circuit from a denial of a petition by the District Court. But the procedure is available, and, in a capital case, I assume that the District Judge will pay close attention to the petitioner's allegations and might be wary of denying appellate review, at least the first time around.

We don't know at this point how deeply involved the District and Fourth Circuit courts will get in this process, for no one has pursued it yet. Everyone but Tichnell is still working the State courts. Experience from other States, however, indicates a very heavy involvement on initial petitions.

With the exception of the separate sentencing proceeding, all of this direct and collateral review is, of course, open to any State prisoner. The fact is, however, that, save for a few diehards (no pun intended), non-capital prisoners do not regularly exhaust all of these procedures, and, to the extent they do, their petitions are often simple, handwritten or jailhouse-lawyer-prepared documents that are disposed of without great difficulty. Not so in capital cases. Every avenue is exhausted by nearly every defendant. The petitions are prepared by able and experienced counsel and require considerable thought.

If all this were not enough, last June the Supreme Court opened up a whole new Pandora's Box that may well add years more to the process.

For at least 200 years, the law has been pretty well settled that the State should not execute an inmate who has become insane. Different reasons have been advanced for this view, some being religious in nature -- that a man should not be forced to meet his Creator and Ultimate Judge while in a state of mental disarray -- some purporting to be more pragmatic -- that the sentence loses its retributive, and possibly its deterrent, effect, if the prisoner becomes unaware that it is to be carried out or why it is to be carried out.

Whatever the reason, most States, either by statute or by common law, permitted or directed the Governor to defer execution of a death sentence while the prisoner was "insane."

On at least two prior occasions, the Supreme Court had found no Constitutional impediment to this scheme and had sustained statutes vesting this authority in the Governor. No less a civil libertarian than Justice Douglas wrote the Opinion in the second case.

All that changed, however, because of the delusions of one Alvin Bernard Ford.

Ford was on death row in Florida. He had been there since January, 1975, when he was awarded capital punishment for murdering a policeman. For eight years, Ford filed one proceeding after another, in both State and Federal court, challenging his conviction and sentence. Conspicuously absent from all of those challenges was any claim that he had suffered from any mental disorder at the time of the offense or at the time he was tried and convicted.

In early 1982, while pursuing his various collateral challenges, he began to manifest "gradual changes in behavior," which rapidly grew more

pronounced. By 1983, he began to refer to himself as Pope John Paul III and to exhibit other bizarre and delusional behavior. A defense psychiatrist concluded that he suffered from "severe, uncontrollable, mental disease which closely resembled 'Paranoid Schizophrenia With Suicide Potential' that was "severe enough to substantially affect Mr. Ford's present ability to assist in the defense of his life."

Following that report, a second psychiatrist was brought in by counsel. That doctor concluded that Ford "had no understanding of why he was being executed, made no connection between the homicide of which he had been convicted and the death penalty," and sincerely believed that he could not be executed because he owned the prisons and could control the Governor through "mind waves." This doctor found "no reasonable possibility" that Ford was dissembling or malingering.

Florida law prohibited the execution of incompetent inmates, defining an inmate as competent if he had "the mental capacity to understand the nature of the death penalty and the reasons why it was imposed on him." Armed with the two opinions, Ford, through counsel, invoked that law. In accordance with the procedure set forth in the statute, which was similar to that previously upheld by the Supreme Court, the Governor appointed three psychiatrists to examine Ford and to evaluate whether he met the statutory test of competency.

Two of the doctors found Ford to be psychotic; one found that he had a "severe adaptational disorder." But they all agreed that he met the test of competency -- that he understood what was about to happen to him and why. One doctor noted that Ford's disorder, though severe "seems contrived and recently learned." Another observed -- although the record does not

entirely support this -- that "[h]is jibberish talk and bizarre behavior started after all his legal attempts failed."

Without comment, or hearing of any kind, the Governor signed a warrant for Ford's execution, thus tacitly finding that he was competent under the statute. In making that decision and in accordance with a general policy he had announced earlier, the Governor specifically declined to receive the reports from the two defense psychiatrists or other material submitted by counsel. He relied entirely on the conclusions of the three psychiatrists he had appointed.

Ford thereupon filed new proceedings, first in State court and then in Federal court, seeking an evidentiary hearing on the issue of his competence and attacking the procedure authorized by the Florida law. The case came to the Supreme Court from a denial of habeas corpus, without a hearing, by a U.S. District Court and an affirmance of that judgment by a divided Circuit Court of Appeals.

I will not prolong this presentation with a full explanation of what the various Justices had to say. The case is Ford v. Wainwright, and I suggest that, if you liked Alice In Wonderland, you will enjoy reading Ford v. Wainwright. Suffice it to say that five Justices -- Marshall, Brennan, Blackmun, Stevens, and Powell -- concluded that there is now a Constitutional right under the 8th Amendment not to be executed while insane. Four Justices -- the five less Powell -- held clearly that the matter was not one of clemency and could not be left solely in the hands of the Governor; a full judicial inquiry was necessary, either at the State or Federal level. Justice Powell seemed to agree that the matter couldn't be left entirely to the Governor, but he suggested that an evidentiary hearing

in court might not be necessary.

Chief Justice Burger and Justices Rehnquist, White, and O'Connor dissented from the application of the 8th Amendment, although White and O'Connor found a due process violation in the refusal of the Governor to hear evidence from Ford's psychiatrists.

I view this case, and a gubernatorial Task Force that I recently chaired viewed this case, as opening up a new round of judicial proceedings for death row inmates who have exhausted all other legal challenges to their conviction and sentence, and we are quite convinced that it will be utilized. This appears as Steps 16-22 on the flow chart. No one can yet reasonably predict what this will entail in practice. It certainly is a new and formidable weapon in the arsenal of those opposed to the death penalty. Consider just the problem of successive petitions.

Given the ferocity with which battles to avoid execution are fought, we must expect that petitions will not be summarily disposed of. After the trier of fact makes his decision, there will be an appeal, if one is allowed. There will then be collateral attacks in State and Federal court, challenging everything from the substantive definition of insanity, to the procedure employed and the evidence presented, to the competence of counsel at each stage of the proceeding. A year or more may pass before the last court has its final say. Then, another petition will be filed based on some further deterioration in the inmate's mental condition, and the process will begin again.

The collateral problems brought to light by this case are even worse. Let us consider, very briefly, but three of them.

First, though Constitutionalizing the right not to be executed while

insane, the Court gave no indication of what it meant by insane. The laws around the country are quite different on that subject. That, of course, will be a fertile ground for litigation.

Second, consider the ethical dilemma facing the psychiatrists at places like Clifton T. Perkins. If a prisoner indeed is found to suffer from such a disorder as to make him incompetent under any of the various tests, the State cannot simply allow him to remain untreated in his prison cell. It has a duty to him, as it does to all prisoners, to provide needed medical care. As a practical matter, in such a case, that would mean either commitment to a C.T. Perkins or placement in a special medical unit in prison. In either event, he would be in the care of a physician.

It is implicit from both the Principles of Medical Ethics adopted by the American Medical Association and from State law that, when a person laboring under a mental disorder is committed to the care of a physician, that physician has a positive duty to treat the individual so that he may recover. Indeed, psychotic states may be very painful to the inmate, and so to leave him untreated would itself be inhumane.

Yet, unlike most situations, effective treatment here will lead directly to the inmate's demise. The doctors then are placed in the unique and awful position of curing their patient so that the State can kill him. of taking a blissfully ignorant person and causing him to recognize the terrible fate that presently eludes him, but that, upon recognition, will, in fact, await him. Humanism ran amok!

The problem from the prisoner's perspective is even more troublesome. Indeed, it is a classic Catch-22. What, if any, right does the inmate have to refuse treatment?

Consider the situation.

If the inmate has no right to refuse treatment, he can be forced to assist in his own demise. That's worse even than forced self-incrimination, which the Constitution forbids.

But if he does have the right to refuse treatment and treatment is necessary to his recovery, he has it entirely within his power to prevent his execution and, effectively, to convert his death sentence into a sentence of imprisonment for some undefined term. Surely the law cannot allow that.

All of this, of course, takes a great deal of time. Richard Tichnell, who is farthest along in the process -- just about to begin the Federal route -- was sentenced to death the first time in August, 1979. It's been almost eight years for him, and he's not even close. Martin Scott was first sentenced in October, 1981; after 5 1/2 years, his case is still pending in the Court of Appeals at Step 4. Timothy Poole is in the same position; his initial sentence came in 1980.

There are no national statistics on delay. I believe that the NAACP Legal Defense Fund, and perhaps other groups, have the raw data, but none of it has been published. The Director of the ACLU Capital Punishment Project has reported verbally that, discounting consensual executions such as Gary Gilmore's in Utah, the average time elapsing between sentence and execution in the 36 executions carried out between 1976 and March, 1985, was six years five months. The Maryland average, if anyone ever is executed, will be considerably longer than that. Recall, then, the seven-month average delay prior to 1961 and the anger of a trial judge when an inmate's sentence was commuted after only two years.

What I have presented to you so far is not idle musing or speculation but simple fact. That is what, in fact, is involved in a death penalty case.

The question, then, in light of the history in this State of no executions for 26 years, an 86% failure rate at the trial level, and a further 50% failure rate at the appellate level, is whether it's really worth the effort.

A number of States are beginning to ask that question, to apply a cost/benefit analysis to the subject of capital punishment. Chief Judge Murphy noted this in his recent State of the Judiciary Address.

The calculation of the cost of pursuing a death penalty case to its successful conclusion is a very uncertain thing. Every case is different, and many of the costs are indirect and difficult to measure. A study in California suggested a minimum cost of \$500,000 per case, but if the 90% failure rate in California is factored in, the cost of each successful prosecution became \$4.5 million. A New York study estimated the cost per capital case would be \$1.8 million; if a 75% failure rate were assumed, the cost of executing one person would be \$7.3 million. Maryland made a similar kind of study in 1985, but it was too flawed to be significant. The ABA has recently developed criteria for such a study and is now looking for money to fund it.

My concern extends beyond the dollar investment, although if there is any semblance of validity to the numbers estimated in California and New York, that alone might be good reason for reexamining our law. It is also with the effect on our legal and judicial resources.

One thing is absolutely clear. The cost of defending these cases and

pursuing the various appellate and collateral remedies is so large that, for all practical purposes, it has frozen private counsel, except under contract with the Public Defender, out of the process. I am informed that the going rate for just the trial stage is about \$40,000, and few defendants can afford that. The Public Defender pays its panel attorneys at the trial level \$25/hour for office time and \$200/day for court time, with a maximum of \$10,000. In one case in which a large Baltimore firm undertook the defense on a pro bono basis, the value of the time invested at the trial level, based on the Public Defender's scale, exceeded \$158,000, and that was about half of what would have been charged under the firm's normal fee schedule. The head of the Public Defender's Appellate Division has equated each death sentence appeal to 20 ordinary criminal appeals in terms of time and resources. In the one appeal he contracted out -- Grandison -- the fee for the appeal alone approached \$10,000.

A large firm may agree to handle one of these cases on a pro bono basis, but it is not likely to handle more than one, or indeed more than one aspect of a single case. The defense of death penalty cases on any continuing basis has become the nearly exclusive preserve of the Public Defender, and that, in itself, is most unfortunate.

And what about the drain on judicial time? I have given you some indication of the burden at the Circuit Court level, with repeated trials, sentencing proceedings, and post-conviction hearings, but that, at least, can be spread around among a number of judges. Not so in the Court of Appeals. All seven have to contend with the thousands of pages of transcript or record extract, the long, multi-issue briefs, and the ever-increasing burden of proportionality review. So far, beginning with

Tichnell, the Court has dealt with 22 capital defendants. The Opinions in those cases, including dissents and concurrences, comprise, in the aggregate 1467 pages in the Maryland Reports -- an average of nearly 67 pages per defendant. Opinions in capital cases appear in 12 of the last 13 volumes.

Many of these cases merit that attention, if at all, only because they are capital cases. Were they not capital, most of them would have gone to, and ended with, the Court of Special Appeals, some justifying no more than a per curiam affirmance or reversal. Is this really an efficient and judicious use of a certiorari Court?

When the Legislature got back into this business after Furman, it did so on a largely emotional basis. I know that for a fact. The Governor initially tried to get a very narrowly drawn bill, allowing capital punishment only for the killing of a hostage, the killing of a law-enforcement officer in an attempt to escape apprehension, or a murder committed while the defendant was already under a life sentence. Those, we thought, would be the kinds of situations where the death penalty might really act as a deterrent or, if it did not, where at least courts and juries would be more inclined to impose and uphold it.

But the Legislature wanted more -- they wanted it applied to the actual killer in nearly any premeditated or felony murder case. The fight was along traditional lines -- was capital punishment, inherently, a wise or moral policy? Little or no serious thought was given to the practical difficulties in actually attempting to impose and carry out the penalty. We've now had nine years of the law and no execution in sight. Each passing year is going to make it more difficult for a Governor -- however law-and-order minded -- to let someone die. Who wants to be responsible for the

first execution in 25 or 30 or 35 years, especially for a crime committed 10 or more years earlier.

I do not suggest that capital punishment be instantly abolished on these pragmatic grounds. I do suggest, however, that (1) the law be dispassionately reviewed by the Legislature in the light of experience over the past 50 years and the practical and imbedded constraints against its use, (2) as part of any such review, the Legislature weigh the overall fiscal and human cost entailed in applying the law against the benefits that might reasonably be expected to ensure from its application, and (3) if the moral issue continues to be resolved in favor of capital punishment, the ultimate decision as to continuance, abolition, or modification of the death penalty law at least be made on a more realistic basis than was used when the law was enacted.

Appendix D

Table of Death Penalty Decisions

Maryland Court of Appeals

Booth v. State, 301 Md. 1, 481 A.2d 505 (1984) [affirming denial of motion to dismiss on double jeopardy grounds]; 306 Md. 172, 507 A.2d 1098 (1986) [affirming sentence of death]; judgment reversed, sentence vacated 482 U.S. ___, 96 L.Ed.2d 440 (1987).

Bowers v. State, 298 Md. 115, 468 A.2d 101 (1983), [affirming conviction and vacating sentence]; 306 Md. 120, 507 A.2d 1072 (1986) [affirming sentence], cert. denied 107 S.Ct. 292 [October 14, 1986].

Calhoun v. State, 297 Md. 563, 468 A.2d 45, cert. denied 466 U.S. 993, 104 S.Ct. 2374 (1983) [affirming conviction and sentence]; 306 Md. 692, 511 A.2d 461 (1986), cert. denied. 107 S.Ct. 1339 (1987) [denying post conviction relief].

Colvin v. State, 299 Md. 88, 472 A.2d 953, cert. denied 496 U.S. 873, 105 S.Ct. 226 (1984) [affirming sentence and conviction].

Evans v. State, 304 Md. 487, 499 A.2d 126 (1985) [affirming sentence and conviction]; motion for rehearing denied 305 Md. 306, 503 A.2d 1326 (1986), cert. denied, 106 S.Ct. 3310 (opinion by Marshall, J., dissenting from denial of certiorari).

Evans and Grandison v. State, 301 Md. 45, 481 A.2d 1135 (1984) [per curiam order denying motion to dismiss indictment on double jeopardy grounds] cert. denied sub. nom Grandison v. Maryland, 105 S.Ct. 1411 (1985).

Foster v. State, 297 Md. 191, 464 A.2d 986 (1983) cert. denied 464 U.S. 1073, 104 S.Ct. 985 (1984) [reversing conviction]; 304 Md. 439, 499 A.2d 1236 (1985), motion for rehearing denied 305 Md. 306, 503 A.2d 1326 (1986), cert. denied ___ U.S. ___, 106 S.Ct. 3310 (1986).

Grandison v. State, 305 Md. 685, 506 A.2d 580 (1986) [affirming conviction and sentence; cert. denied ___ U.S. ___, 107 S.Ct. 38 (1986) (Opinion by Justice Marshall dissenting from the denial of certiorari)].

Harris v. State, 295 Md. 329, 455 A.2d 979 (1983) [affirming conviction and vacating sentence]; 299 Md. 511, 474 A.2d 980 (1984) [remanding for hearing on motion to withdraw guilty plea]; 303 Md. 685, 496 A.2d 1074 (1985) [affirming denial of motion to withdraw plea of guilty]; 306 Md. 344, 509 A.2d 120 (1986) [vacating sentence].

Huffington v. State, 295 Md. 1, 452 A.2d 1211 (1982) [reversing conviction]; 302 Md. 184, 486 A.2d 200 (1985) [per curiam order affirming denial of motion to dismiss on double jeopardy grounds]; 304 Md. 559, 500 A.2d 272 (1985) [affirming sentence]; cert. denied 106 S.Ct. 3315 (1986) (opinion by Marshall, J., dissenting from denial of certiorari).

Johnson v. State, 292 Md. 405, 439 A.2d 542 (1982) (affirming conviction, vacating sentence).

Johnson v. State, 303 Md. 487, 495 A.2d 1 (1985), cert. denied 106 S.Ct. 1135 (1986).

Lodowski v. State, 302 Md. 691, 490 A.2d 1228 (1984) cert. granted, case remanded to Court of Appeals for further consideration, 475 U.S. ___, 106 S.Ct. 50 (1986); 307 Md. 233, 513 A.2d 299 (1986) [reversing conviction].

Maziarz v. State, 302 Md. 1, 485 A.2d 245 (1984) [affirming conviction, vacating sentence].

Mills v. State, 310 Md. 33, 527 A.2d 3 (1987) (affirming conviction and sentence of death] cert. granted ___ U.S. ___ (December 7, 1987).

Poole v. State, 290 Md. 114, 428 A.2d 434 (1981) [reversing conviction]; 295 Md. 167, 453 A.2d 1218 (1983) [affirming conviction, vacating sentence].

Reid v. State, 305 Md. 9, 501 A.2d 436 (1985) [affirming conviction, remanding with directions]; ___ Md. ___, ___ A.2d ___ (1987) [remanded for resentencing in light of Booth].

Scott v. State, 297 Md. 235, 465 A.2d 1126 (1983) [affirming conviction, vacating sentence]; 310 Md. 277, 529 A.2d 340 (1987) (sentence vacated, remanded for resentencing).

Stebbing v. State, 299 Md. 331, 473 A.2d 903 [affirming conviction], cert. denied 496 U.S. 900 (1984) (opinion by Marshall, J., dissenting from denial of certiorari).

Thomas v. State, 301 Md. 294, 483 A.2d 6 (1984) [affirming sentence], cert. denied 105 S.Ct. 1856 (1985) (opinion by Marshall, J., dissenting from denial of certiorari).

Tichnell v. State, 287 Md. 695, 415 A.2d 830 (1980) [affirming conviction, vacating sentence]; 290 Md. 43, 427 A.2d 991 (1981) [vacating sentence]; 297 Md. 432, 468 A.2d 1 (1983) [affirming sentence, cert. denied 104 S.Ct 2374 (1984); 306 Md. 428, 509 A.2d 1179 (1986) [reversing nisi prius award of postconviction relief].

Trimble v. State, 300 Md. 387, 478 A.2d 1143, cert. denied 469 U.S. 1230 (1985) [affirming sentence].

White v. State, 300 Md. 719, 481 A.2d 201 (1984), cert. denied 470 U.S. 1062 (1985) (opinion by Marshall, J., dissenting from denial of certiorari) [affirming conviction and sentence.