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# Bureau of Justice Statistics Bulletin

# Capital Punishment 1990

NCJRS

By Lawrence A. Greenfeld  
BJS Statistician

Of the 36 States and the Federal Government with capital punishment laws, 11 executed 23 prisoners during 1990, bringing the total number of executions to 143 since 1976, the year that the U.S. Supreme Court reinstated the death penalty. Those executed during 1990 had spent an average of 7 years and 11 months awaiting execution.

During 1990, 244 prisoners under sentence of death were received by State prisons from the courts. During the year 101 persons had their death sentences vacated or commuted and 7 died in prison while still under a death sentence. At yearend 34 States reported a total of 2,356 prisoners under sentence of death, a 5% increase over the number held at the end of 1989. All prisoners under sentence of death on December 31, 1990, had been convicted of murder. The median time since sentencing for the 2,356 prisoners was 4 years and 8 months.

About 7 in 10 offenders under sentence of death for whom criminal-history data were available had a prior felony conviction; about 1 in 11 had a prior homicide conviction. About 2 in 5 condemned prisoners had a criminal justice status at the time of the capital offense. Among those with a criminal justice status, half were on parole; the rest were in prison, on escape from prison, on probation, or had pending charges when they committed the capital crime.

For the 821 inmates who had been sentenced to death between 1988 and 1990, those with two or more death sentences comprised nearly 15% of all inmates: 15.3% of the whites, 13.4% of the blacks, and 16.4% of the Hispanics.

State executions in the United States and status of death penalty, 1990

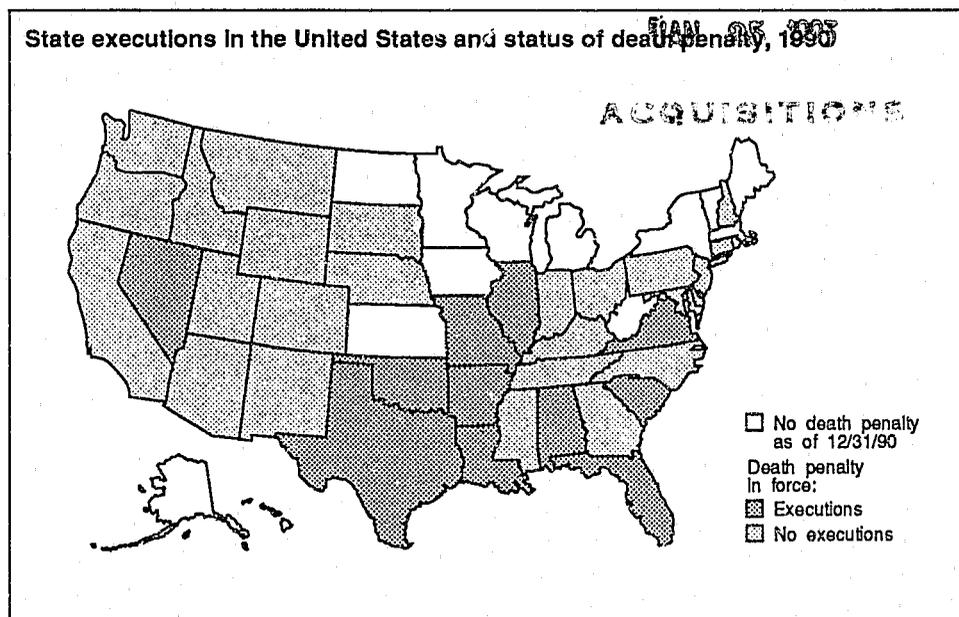


Figure 1

September 1991

This Bulletin marks the 61st annual capital punishment report issued by the Federal Government. Begun in 1930, this statistical series has provided detailed information on the characteristics of those receiving a death sentence as well as those persons executed. Computerized data for all persons under a sentence of death at any time between 1973 and 1990 are available to the public through

the BJS-sponsored National Archive of Criminal Justice Data.

I would like to express appreciation to the many persons in State and Federal corrections agencies and offices of State attorneys general who make this annual report possible.

Steven D. Dillingham, Ph.D.  
Director

The majority, 1,375 (58.4%), of those under sentence of death were white; 943 (40%) were black; 24 (1%) were American Indian; and 14 (0.6%) were Asian. Hispanic prisoners (172) accounted for 7.3% of those under a death sentence. Thirty-two

were female. The median age of inmates sentenced to death was 34 years.

About 58% of those under sentence of death were held by States in the South. Western States held an additional 21%;

Midwestern States, 15%; and the Northeastern States of Connecticut, New Jersey, and Pennsylvania, just under 6%. Texas had the largest number of condemned inmates (320), followed by Florida (299), California (280), Illinois (128), and Pennsylvania (121).

During 1990, 23 State prison systems received a total of 244 prisoners under sentence of death from courts. California (33 admissions), Florida (31 admissions), Texas (24 admissions), and Illinois (17 admissions) accounted for 43% of the inmates entering prison under a death sentence during the year. The 23 executions in 1990 were carried out by 11 States: 4 each in Missouri, Florida, and Texas; 3 in Virginia; 2 in Arkansas; and 1 each in Alabama, Illinois, Louisiana, Oklahoma, Nevada, and South Carolina. Three States — Arkansas, Illinois, and Oklahoma — carried out their first executions since reinstatement of the death penalty in 1976. Of those executed 16 were white males, and 7 were black males. Twelve of the executions were carried out by lethal injection and 11 by electrocution.

From the beginning of 1977 to the end of 1990, a total of 143 executions were carried out by 16 States. Of these, 87 (60.8%) were of white inmates, and 56 (39.2%) were of black inmates. Those executed included nine Hispanic males and one white female. Over the same period, 3,451 admissions under sentence of death occurred, of which 2,017 (58.4%) were white, 1,380 (40.0%) were black, and 54 (1.6%) were of other races. A total of 228 Hispanics (6.6%) were among the admissions over the period. During the same years, 1,335 removals from a death sentence occurred as a result of dispositions other than execution (resentencing, retrial, commutation, or death while awaiting execution). Of those removed from a death sentence, 756 (56.6%) were white, 563 (42.2%) were black, and 16 (1.2%) were of other races. Sixty-two Hispanics (4.6%) were removed from a death sentence during the period.

#### Capital punishment in the courts

In *Blystone v. Pennsylvania* (decided February 28, 1990), the U.S. Supreme Court upheld Pennsylvania's death penalty statute which required the imposition of the death penalty if the jury found that the aggravating circumstances outweighed the mitigating circumstances. The petitioner was convicted of first-degree murder for the robbery-killing of a learning disabled hitchhiker. The jury found no

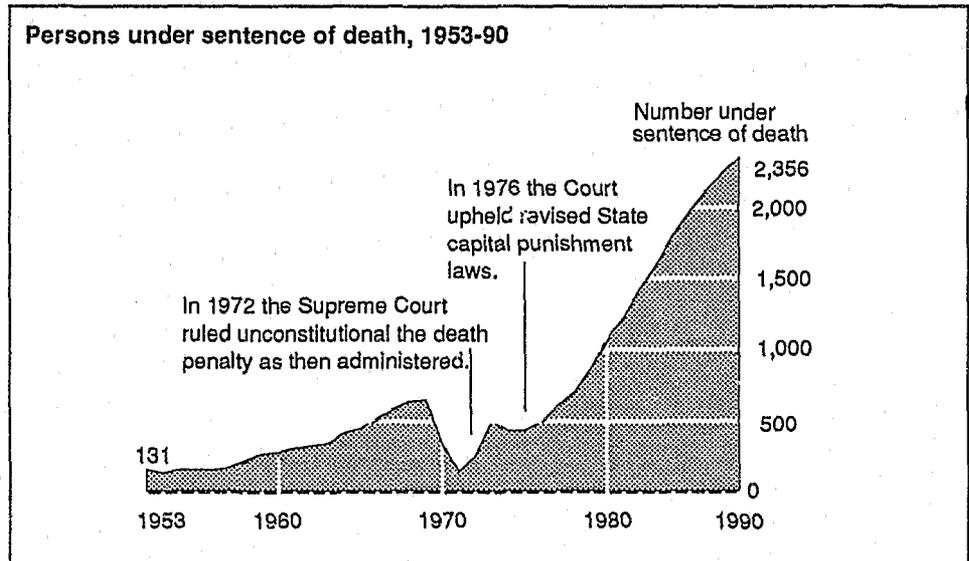


Figure 2

mitigating circumstances and one aggravating circumstance — the felony-murder aggravating circumstance. The jury imposed the death sentence as required by law after concluding that the aggravating circumstances outweighed the mitigating circumstances. The High Court considered the Pennsylvania law's approach to capital sentencing by the jury and concluded that although there were some "mandatory" aspects to the procedure in Pennsylvania, the statute satisfied the constitutional requirement that a capital sentencing jury be allowed to consider all relevant mitigating evidence.

The issue of jury unanimity on mitigating circumstances was considered by the Supreme Court in *McKoy v. North Carolina* (decided March 5, 1990). The petitioner was convicted of the murder of a deputy sheriff and the jurors were given a verdict form containing four questions related to the consideration given to the evidence of aggravation and mitigation. The jury was instructed to consider only mitigating circumstances upon which they could agree unanimously. The jury unanimously concluded that (1) two statutory aggravating circumstances were found to have been present; (2) two mitigating circumstances were found to have been present; (3) the mitigating circumstances did not outweigh the aggravating circumstances; and, (4) the death penalty was appropriate in light of the aggravating and mitigating circumstances. The Court held that the required unanimity on mitigating circumstances in the North Carolina sentencing procedure limited the ability of jurors to give weight to any and all mitigating evidence.

Jury instructions on the consideration to be given to mitigating evidence was also an issue in *Boyd v. California* (decided March 5, 1990). The petitioner, convicted of the robbery-kidnap-murder of a convenience store clerk, challenged the limiting language of California jury instructions which instruct jurors that they "shall impose" a sentence of either death or life imprisonment based upon their decision as to the relative weight of aggravating and mitigating circumstances. The petitioner also alleged that California's instruction on the consideration of non-statutory mitigating evidence was too general for the jury to sufficiently understand what background evidence should be considered when weighing aggravation and mitigation. The Supreme Court, however, concluded that the language contained in the instructions was sufficiently understandable and did not limit the jury from making an individualized assessment of the appropriateness of the death penalty.

*Saffle v. Parks* (decided March 5, 1990) questioned whether an Oklahoma trial judge's instructions to the jury to "avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factor when imposing sentence" may have resulted in a failure to properly consider any mitigating evidence which had been presented. The petitioner, convicted of the murder of a gas station attendant, contended that the judge's instructions to the jury had led the jury to conclude that they should disregard prior instructions as to the consideration to be given to mitigating evidence. The High Court concluded that the petitioner's contention that sentencing decisions in capital cases could be based

upon sympathy for the defendant amounted to a "new rule" of constitutional law and could not be applied on collateral review.

The High Court applied similar reasoning in **Butler v. McKellar** (decided March 5, 1990), a South Carolina case which challenged statements given to police about a rape-murder by a defendant after arrest on an unrelated charge for which counsel was retained. The petitioner contended that he was improperly questioned by the police about the murder without counsel present, even though he had received "Miranda" warnings and twice signed "waiver of rights" forms, because the police knew he had retained counsel on the earlier, unrelated charge. After his conviction became final following direct appeal, the Supreme Court handed down *Arizona v. Roberson* which concluded that the fifth amendment bars police interrogation following a request for counsel during a separate investigation. The petitioner's contention to the High Court was that the holding in *Roberson* should be retroactively applied. The Supreme Court held, however, that as in the preceding case, such retroactivity would constitute a "new rule" of constitutional law and could not be applied in a habeas case on collateral review.

In **Clemons v. Mississippi** (decided March 28, 1990) the Supreme Court dealt with the role of State appellate courts in reweighing aggravating and mitigating circumstances after a jury had applied an invalid aggravating factor. The petitioner was convicted of the robbery and murder of a pizza delivery man. The jury, during the sentencing phase, concluded that two aggravating factors were present — the murder was "especially heinous, atrocious, or cruel" and the murder was committed for pecuniary gain — and that these factors outweighed any evidence presented in mitigation, and a sentence to death was imposed. The "especially heinous" circumstance had previously been invalidated by the Supreme Court in 1988 (*Maynard v. Cartwright*) because it was too vague. On an appeal, the Mississippi Supreme Court concluded that, after reweighing the constitutionally valid aggravating and mitigating circumstances, the death penalty was still appropriate. The High Court found that it was permissible for an appellate court to reweigh the aggravating and mitigating evidence and impose a death sentence. However, the Court vacated the death sentence and remanded the case for resentencing because the State appellate court

opinion failed to describe clearly how they did consider the single aggravating factor balanced against the mitigating evidence.

The Supreme Court also dealt with appellate reviews of death sentences in **Jonas H. Whitmore, Individually and as next friend of Ronald Gene Simmons, Petitioner v. Arkansas et al.** (decided April 24, 1990). In this case, the petitioner was a fellow death-row inmate to Ronald Gene Simmons, who had been convicted of the murders of 16 people. After conviction, Simmons waived a direct appeal to the State supreme court for review of his conviction and sentence and in subsequent hearings it was determined that he was fully competent to request such a waiver. Under Arkansas law, such reviews are not mandatory. Whitmore petitioned the High Court to consider whether a third party could be given standing to appeal on behalf of a capital defendant who has chosen to waive any subsequent reviews and whether the eighth and fourteenth amendments require mandatory appellate review. The Court concluded that the petitioner did not have standing to seek the Court's intervention because he was neither an injured party nor was he a "next friend" in the sense that he was acting on behalf of someone who was not mentally competent. The Court's decision, after denying the petitioner's standing, did not have to address the issue of mandatory appellate review.

In **Sawyer v. Smith** (decided June 21, 1990) the High Court was confronted with the issue of inappropriate comments to jurors by a Louisiana prosecutor during closing arguments. The petitioner was convicted of a brutal murder which involved repeated beating, scalding with boiling water, and setting afire the torso and genital areas of a female victim. The prosecutor during closing arguments to the jury pointed out that if the jury decided on a death sentence, the sentence would simply be a recommendation subsequently reviewed by other judges. The petitioner claimed that such statements violated the eighth amendment because jurors were misinformed about their responsibilities in capital sentencing and such statements would render capital sentencing unpredictable — arguments the Court had affirmed in a case decided nearly a year after petitioner's conviction became final (*Caldwell v. Mississippi*). The Supreme Court concluded that the *Caldwell* decision had announced a new rule of constitutional law and therefore could not be used to attack a conviction which had previously become final.

**Lewis v. Jeffers** (decided June 27, 1990) also raised an issue relating to the vagueness of Arizona's aggravating circumstance of heinousness and depravity in the commission of murder. However, in this case the Supreme Court found that the Arizona courts had sufficiently defined the types of behavior classifiable as heinous or depraved. The petitioner had been convicted of intentionally administering a heroin overdose and then choking the female victim to death. After she was dead, he continued to beat her, causing additional wounds and bleeding. This gratuitous violence was administered with relish. The Court concluded that because the Arizona courts had narrowed the circumstances under which heinousness is to be applied, the only concern was whether the State applied it arbitrarily or capriciously. The Court found that any "rational fact-finder" could have attributed heinousness to the petitioner's conduct after the murder.

In **Walton v. Arizona** (decided June 27, 1990) the Supreme Court confronted the issue of the permissibility of judge-imposed death sentences. In this case, a young Marine was abducted, robbed, shot, and left for dead in the desert. After regaining consciousness and blinded by the gunshot wound, he apparently wandered in the desert for 6 days and died from dehydration, starvation, and pneumonia. A jury convicted the petitioner of first-degree murder and the trial judge found two aggravating circumstances present — murder for pecuniary gain and murder committed in an "especially heinous, cruel, or depraved manner." The trial judge found that no mitigating circumstances outweighed these aggravating circumstances. The High Court affirmed the death sentence concluding that death penalty decisions do not require a jury to evaluate the aggravating and mitigating circumstances, that an Arizona requirement to establish the existence of mitigating evidence by a preponderance of the evidence does not preclude the consideration of any and all mitigating evidence, that Arizona's death sentencing scheme is not mandatory, and that judges may evaluate the relevance of aggravating factors which have been narrowed through court decisions. The Court also found that the circumstance on heinousness, which had been defined by the Arizona courts, was sufficiently clear to provide guidance to the sentencing judge on its application.

The Court, while finding the Arizona "heinousness" circumstance adequately defined by the courts in that State, concluded that Mississippi's heinousness circumstance was insufficiently narrowed in *Shell v. Mississippi* (decided October 29, 1990). The High Court found that the Mississippi court's instructions to the jury did not cure the defect of being overly vague by defining heinous as "extremely wicked or shockingly evil," by defining atrocious as "outrageously wicked and vile," and by defining cruel as "designed to inflict a high degree of pain with indifference to, or even enjoyment of the suffering of others."

In *Minnick v. Mississippi* (decided December 3, 1990), a death sentence was reversed after the Supreme Court concluded the police interrogation had been improperly conducted. The petitioner, while an escapee from a county jail, was convicted of two murders arising from the burglary of a trailer. After his arrest, the defendant requested and received counsel. However, during an interrogation by a county deputy sheriff without counsel present, the petitioner confessed and was subsequently convicted and sentenced to death. The High Court concluded that the interrogation was improper because once counsel is requested by a defendant in custody, interrogation must cease until counsel is present.

### Capital punishment laws

At yearend 1990 the death penalty was authorized by the statutes of 36 States and by Federal statute (table 1).<sup>1</sup> No jurisdictions enacted new legislation authorizing the death penalty during the year.

Two jurisdictions, North Carolina and Oregon, had their statutes struck in part during the year by courts. On March 5, 1990, the U.S. Supreme Court in *Dock McKoy v. North Carolina*, concluded that the capital sentencing procedures, which

<sup>1</sup> See Appendix II, p. 13, for a listing of Federal death penalty provisions.

**Table 1. Capital offenses, by State, 1990**

<b>Alabama.</b> Murder during kidnaping, robbery, rape, sodomy, burglary, sexual assault, or arson; murder of a peace officer, correctional officer, or public official; murder while under a life sentence; murder for pecuniary gain or contract; aircraft piracy; murder by a defendant with a previous murder conviction; murder of a witness to a crime. (13A-5-40)	<b>Indiana.</b> Murder with 12 aggravating circumstances.	after conviction for a prior purposeful killing or prior attempted murder; murder of a peace officer; murder arising from specified felonies (rape, kidnaping, arson, robbery, burglary); murder of a witness to prevent testimony in a criminal proceeding or in retaliation. (O.R.C. secs. 2929.02, 2903.01, 2929.04)
<b>Arizona.</b> First-degree murder.	<b>Kentucky.</b> Aggravated murder; kidnaping when victim is killed.	<b>Oklahoma.</b> Murder with malice aforethought; murder arising from specified felonies (forcible rape, robbery with a dangerous weapon, kidnaping, escape from lawful custody, first-degree burglary, arson); murder when the victim is a child who has been injured, tortured, or maimed.
<b>Arkansas.</b> Capital murder as defined by Arkansas statute (5-10-101). Felony murder; arson causing death; intentional murder of a law enforcement officer; murder of prison, jail, court, or correctional personnel or of military personnel acting in line of duty; multiple murders; intentional murder of a public officeholder or candidate; intentional murder while under life sentence; contract murder.	<b>Louisiana.</b> First-degree murder; treason. (La. R.S. 14:30 and 14:113)	<b>Oregon.</b> Aggravated murder.
<b>California.</b> Treason; aggravated assault by a prisoner serving a life term; first-degree murder with special circumstances; train wrecking; perjury causing execution.	<b>Maryland.</b> First-degree murder, either premeditated or during the commission of a felony.	<b>Pennsylvania.</b> First-degree murder.
<b>Colorado.</b> First-degree murder; kidnaping with death of victim; felony murder.	<b>Mississippi.</b> Capital murder includes murder of a peace officer or correctional officer, murder while under a life sentence, murder by bomb or explosive, contract murder, murder committed during specific felonies (rape, burglary, kidnaping, arson, robbery, sexual battery, unnatural intercourse with a child, nonconsensual unnatural intercourse), and murder of an elected official. Capital rape is the forcible rape of a child under 14 years old by a person 18 years or older. Aircraft piracy.	<b>South Carolina.</b> Murder with statutory aggravating circumstances.
<b>Connecticut.</b> Murder of a public safety or correctional officer; murder for pecuniary gain; murder in the course of a felony; murder by a defendant with a previous conviction for intentional murder; murder while under a life sentence; murder during a kidnaping; illegal sale of cocaine, methadone, or heroin to a person who dies from using these drugs; murder during first-degree sexual assault; multiple murders.	<b>Missouri.</b> First-degree murder. (565.020 RSMO)	<b>South Dakota.</b> First-degree murder; kidnaping with gross permanent physical injury inflicted on the victim; felony murder.
<b>Delaware.</b> First-degree murder with aggravating circumstances.	<b>Montana.</b> Deliberate homicide; aggravated kidnaping when victim or rescuer dies; attempted deliberate homicide, aggravated assault, or aggravated kidnaping by a State prison inmate who has a prior conviction for deliberate homicide or who has been previously declared a persistent felony offender. (46-18-303,MCA)	<b>Tennessee.</b> First-degree murder.
<b>Florida.</b> First-degree murder.	<b>Nebraska.</b> First-degree murder.	<b>Texas.</b> Murder of a public safety officer, fireman, or correctional employee; murder during the commission of specified felonies (kidnaping, burglary, robbery, aggravated rape, arson); murder for remuneration; multiple murders; murder during prison escape; murder by a State prison inmate.
<b>Georgia.</b> Murder; kidnaping with bodily injury when the victim dies; aircraft hijacking; treason; kidnaping for ransom when the victim dies.	<b>Nevada.</b> First-degree murder.	<b>Utah.</b> First-degree murder. (76-5-202, Utah Code annotated)
<b>Idaho.</b> First-degree murder; aggravated kidnaping.	<b>New Hampshire.</b> Contract murder; murder of a law enforcement officer; murder of a kidnaping victim; killing another after being sentenced to life imprisonment without parole.	<b>Virginia.</b> Murder during the commission or attempts to commit specified felonies (abduction, armed robbery, rape); contract murder; murder by a prisoner while in custody; murder of a law enforcement officer; multiple murders; murder of a child under 12 years during an abduction; murder arising from drug violations. (18.2-31, Virginia Code as amended)
<b>Illinois.</b> Murder accompanied by at least 1 of 10 aggravating factors.	<b>New Jersey.</b> Purposeful or knowing murder; contract murder.	<b>Washington.</b> Aggravated first-degree premeditated murder.
	<b>New Mexico.</b> First-degree murder; felony murder with aggravating circumstances.	<b>Wyoming.</b> First-degree murder, including felony murder.
	<b>North Carolina.</b> First-degree murder. (N.C.G.S. 14-17)	
	<b>Ohio.</b> Assassination; contract murder; murder during escape; murder while in a correctional facility; murder	

required juror unanimity on findings relating to mitigating circumstances, violated the eighth amendment by preventing jurors from considering the weight to be given to all mitigating evidence. On January 11, 1990, the Supreme Court of the State of Oregon in *State v. Wagner* (309 Or 5,786 P2d 93 (1990)) concluded that juries must be given an opportunity to consider all relevant mitigating evidence, and not just such evidence related to the crime, and required a fourth question on general mitigation be added to the list of jury instructions. Most inmates under sentence of death in Oregon had their sentences removed as a result and were remanded for resentencing.

### Statutory changes

During 1990, 11 States revised statutory provisions relating to the death penalty. Two States changed the method of execution to lethal injection, three States added drug-related murders to the list of capital murder provisions, and two States added exclusions to capital murder for mentally retarded offenders or offenders less than 16 years old. Two States also added new aggravating factors relating to the age of the victim (less than 18 years old), premeditation, and murders arising from burglaries. By State, these statutory changes were as follows:

**Colorado** — added life without the possibility of parole to the list of sentencing options and incorporated as aggravating factors intentional murders of victims under the age of 18 and intentional murders in furtherance of illegal drug sales or distribution.

**Illinois** — added drug conspiracy, residential burglary, and having a preconceived plan as aggravating factors.

**Indiana** — corrected cross-references to kidnaping and criminal confinement statutes under the list of aggravating circumstances.

**Louisiana** — changed the method of execution to lethal injection for those sentenced on or after January 1, 1991.

**Missouri** — added an exclusion from capital sentencing for first-degree murder committed by persons under age 16.

**New Hampshire** — revised the listing of capital murder offenses and all procedures relating to capital murder (revisions effective on January 1, 1991).

**Table 2. Method of execution, by State, 1990**

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

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

<sup>a</sup>Authorizes 2 methods of execution.

<sup>b</sup>Arkansas authorizes lethal injection for those whose capital offense occurred after 7/4/83; for those whose offense occurred before that date, the condemned prisoner may select lethal injection or electrocution.

<sup>c</sup>New Hampshire authorizes hanging only if lethal injection can not be given.

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

<sup>e</sup>All death sentences imposed on or after 1/1/91 in Louisiana will be carried out by lethal injection. Sentences imposed prior to that date will be carried out by electrocution (La. R.S. 15:569).

<sup>f</sup>On 6/13/89 the Ohio Legislature passed a bill to adopt lethal injection as the method of execution. This bill was vetoed by the Governor on 7/3/89. The House voted to override the veto, but the Senate failed to vote on the override before the end of the session.

**Table 3. Minimum age authorized for capital punishment, yearend 1990**

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

Note: Ages at the time of the capital offense were indicated by the offices of the State attorneys general.

<sup>a</sup>See Arkansas Code Ann. 9-27-318(b)(1)(Repl. 1991).

<sup>b</sup>See Conn. Gen. Stat. 53a-46a(g)(1).

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

<sup>d</sup>Minimum age defined by statute is 13, but effective age is 16 based on an interpretation of U.S. Supreme Court decisions by the State attorney general's office.

<sup>e</sup>Age can be a statutory mitigating factor. Youths as young as 12 may be tried as adults, but age less than 18 is a mitigating factor.

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

<sup>g</sup>Age 18; less than 18 but not younger than 14 if waived from juvenile court.

<sup>h</sup>Age 10, but only after a transfer hearing to try a juvenile as an adult.

**Pennsylvania** — repealed the statute authorizing electrocution as the method of execution and added a new statute authorizing lethal injection.

**South Dakota** — revised language on the procedures to be used in giving instructions to jurors.

**Tennessee** — added a new section which prohibits the imposition of a death sentence to defendants convicted of first-degree murder who are found to have been mentally retarded at the time of the offense and provides for the consideration of diminished intellectual capacity as a mitigating circumstance.

**Virginia** — added willful, deliberate, and premeditated killings arising from violations of controlled substances statutes to the definitions of capital murder.

**Washington** — detailed procedures to be used for setting execution dates after a stay of execution has been terminated or vacated.

**Table 4. Prisoners under sentence of death, by region, State, and race, yearend 1989 and 1990**

Region and State	Prisoners under sentence of death 12/31/89			Received under sentence of death			Removed from death row (excluding executions) <sup>a</sup>			Executed			Prisoners under sentence of death 12/31/90		
	Total	White	Black	Total	White	Black	Total	White	Black	Total	White	Black	Total	White	Black
U.S. total	2,243	1,308	898	244	147	94	108	64	42	23	16	7	2,356	1,375	943
Federal <sup>b</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
State	2,243	1,308	898	244	147	94	108	64	42	23	16	7	2,356	1,375	943
Northeast	134	52	81	13	6	7	14	6	8	0	0	0	133	52	80
Connecticut	2	2	0	0	0	0	0	0	0	0	0	0	2	2	0
New Hampshire	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	18	7	11	3	1	2	11	4	7	0	0	0	10	4	6
Pennsylvania	144	43	70	10	5	5	3	2	1	0	0	0	121	46	74
Midwest	348	167	179	34	15	19	13	5	8	5	4	1	364	173	189
Illinois	119	45	74	17	5	12	7	0	7	1	1	0	128	49	79
Indiana	47	30	17	3	3	0	2	1	1	0	0	0	48	32	16
Missouri	72	41	31	6	3	3	2	2	0	4	3	1	72	39	33
Nebraska	12	8	3	0	0	0	1	1	0	0	0	0	11	7	3
Ohio	98	43	54	8	4	4	1	1	0	0	0	0	105	46	58
South Dakota	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
South	1,298	759	516	144	88	56	56	34	20	17	11	6	1,369	802	546
Alabama	106	52	53	14	6	8	2	0	2	1	0	1	117	58	58
Arkansas	33	23	10	7	4	3	5	4	1	2	2	0	33	21	12
Delaware	7	2	5	0	0	0	1	0	1	0	0	0	6	2	4
Florida	285	187	98	31	21	10	13	12	1	4	3	1	299	193	106
Georgia	90	46	44	14	7	7	6	2	4	0	0	0	98	51	47
Kentucky	26	20	6	0	0	0	0	0	0	0	0	0	26	20	6
Louisiana	35	16	19	0	0	0	3	2	1	1	0	1	31	14	17
Maryland	15	3	12	4	0	4	0	0	0	0	0	0	19	3	16
Mississippi	40	18	22	10	2	8	3	2	1	0	0	0	47	18	29
North Carolina	83	41	37	14	9	5	13	5	7	0	0	0	84	45	35
Oklahoma	112	78	25	9	6	3	2	2	0	1	1	0	118	81	28
South Carolina	41	19	22	3	1	2	1	1	0	1	1	0	42	18	24
Tennessee	76	48	26	8	8	0	0	0	0	0	0	0	84	56	26
Texas	306	185	116	24	19	5	6	4	2	4	2	2	320	198	117
Virginia	43	21	21	6	5	1	1	0	0	3	2	1	45	24	21
West	463	330	122	53	38	12	25	19	6	1	1	0	490	348	128
Arizona	84	76	6	11	8	2	4	3	1	0	0	0	91	81	7
California	253	153	94	33	23	8	6	3	3	0	0	0	280	173	99
Colorado	3	3	0	0	0	0	0	0	0	0	0	0	3	3	0
Idaho	18	18	0	1	1	0	0	0	0	0	0	0	19	19	0
Montana	8	5	1	0	0	0	2	1	1	0	0	0	6	4	0
Nevada	53	39	14	5	3	2	0	0	0	1	1	0	57	11	16
New Mexico	1	1	0	0	0	0	0	0	0	0	0	0	1	1	0
Oregon	23	20	3	0	0	0	13	12	1	0	0	0	10	8	2
Utah	11	8	3	0	0	0	0	0	0	0	0	0	11	8	3
Washington	7	5	1	3	3	0	0	0	0	0	0	0	10	8	1
Wyoming	2	2	0	0	0	0	0	0	0	0	0	0	2	2	0

Note: States not listed and the District of Columbia did not authorize the death penalty as of 12/31/89. Some figures shown for yearend 1989 are revised from those reported in *Capital Punishment 1989*, NCJ-124545. The revised figures include 20 inmates who either were reported late to the National Prisoner Statistics Program or were not in the custody of State correctional authorities on 12/31/89 (4 in Illinois, 4 in Texas, 3 in Oklahoma, 3 in Pennsylvania, 2 in Georgia, and 1 each in Florida, Idaho, Nevada, and Tennessee) and exclude 27 inmates who were relieved of the death sentence on or before 12/31/89 (5 in Florida, 5 in North Carolina, 4 in Mississippi, 3 in Kentucky, 2 in Georgia, 2 in Texas, and 1 each in California, Idaho, Indiana, Maryland, Pennsylvania, and South Carolina).

<sup>a</sup>Includes 5 deaths due to natural causes (2 in California and 1 each in Pennsylvania, Nebraska, and Georgia), 1 suicide in Arkansas, and 1 murder by another inmate in Texas.

<sup>b</sup>Totals include persons of other races.

<sup>c</sup>Excludes 5 males held under Armed Forces jurisdiction with a military death sentence for murder.

**Pennsylvania** — repealed the statute authorizing electrocution as the method of execution and added a new statute authorizing lethal injection.

**South Dakota** — revised language on the procedures to be used in giving instructions to jurors.

**Tennessee** — added a new section which prohibits the imposition of a death sentence to defendants convicted of first-degree murder who are found to have been mentally retarded at the time of the offense and provides for the consideration of diminished intellectual capacity as a mitigating circumstance.

**Virginia** — added willful, deliberate, and premeditated killings arising from violations of controlled substances statutes to the definitions of capital murder.

**Washington** — detailed procedures to be used for setting execution dates after a stay of execution has been terminated or vacated.

Table 4. Prisoners under sentence of death, by region, State, and race, yearend 1989 and 1990

Region and State	Prisoners under sentence of death 12/31/89			Received under sentence of death			Removed from death row (excluding executions) <sup>a</sup>			Executed			Prisoners under sentence of death 12/31/90		
	Total <sup>b</sup>	White	Black	Total <sup>b</sup>	White	Black	Total <sup>b</sup>	White	Black	Total <sup>b</sup>	White	Black	Total <sup>b</sup>	White	Black
U.S. total	2,243	1,308	898	244	147	94	108	64	42	23	16	7	2,356	1,375	943
Federal <sup>c</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
State	2,243	1,308	898	244	147	94	108	64	42	23	16	7	2,356	1,375	943
Northeast	134	52	81	13	6	7	14	6	8	0	0	0	133	52	80
Connecticut	2	2	0	0	0	0	0	0	0	0	0	0	2	2	0
New Hampshire	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	18	7	11	3	1	2	11	4	7	0	0	0	10	4	6
Pennsylvania	144	43	70	10	5	5	3	2	1	0	0	0	121	46	74
Midwest	348	167	179	34	15	19	13	5	8	5	4	1	364	173	189
Illinois	119	45	74	17	5	12	7	0	7	1	1	0	128	49	79
Indiana	47	30	17	3	3	0	2	1	1	0	0	0	48	32	16
Missouri	72	41	31	6	3	3	2	2	0	4	3	1	72	39	33
Nebraska	12	8	3	0	0	0	1	1	0	0	0	0	11	7	3
Ohio	98	43	54	8	4	4	1	1	0	0	0	0	105	46	58
South Dakota	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
South	1,298	759	516	144	88	56	56	34	20	17	11	6	1,369	802	546
Alabama	106	52	53	14	6	8	2	0	2	1	0	1	117	58	58
Arkansas	33	23	10	7	4	3	5	4	1	2	2	0	33	21	12
Delaware	7	2	5	0	0	0	1	0	1	0	0	0	6	2	4
Florida	285	187	98	31	21	10	13	12	1	4	3	1	299	193	106
Georgia	90	46	44	14	7	7	6	2	4	0	0	0	98	51	47
Kentucky	26	20	6	0	0	0	0	0	0	0	0	0	26	20	6
Louisiana	35	16	19	0	0	0	3	2	1	1	0	1	31	14	17
Maryland	15	3	12	4	0	4	0	0	0	0	0	0	19	3	16
Mississippi	40	18	22	10	2	8	3	2	1	0	0	0	47	18	29
North Carolina	83	41	37	14	9	5	13	5	7	0	0	0	84	45	35
Oklahoma	112	78	25	9	6	3	2	2	0	1	1	0	118	81	28
South Carolina	41	19	22	3	1	2	1	1	0	1	1	0	42	18	24
Tennessee	76	48	26	8	8	0	0	0	0	0	0	0	84	56	26
Texas	306	185	116	24	19	5	6	4	2	4	2	2	320	198	117
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Colorado	3	3	0	0	0	0	0	0	0	0	0	0	3	3	0
Idaho	18	18	0	1	1	0	0	0	0	0	0	0	19	19	0
Montana	8	5	1	0	0	0	2	1	1	0	0	0	6	4	0
Nevada	53	39	14	5	3	2	0	0	0	1	1	0	57	41	16
New Mexico	1	1	0	0	0	0	0	0	0	0	0	0	1	1	0
Oregon	23	20	3	0	0	0	13	12	1	0	0	0	10	8	2
Utah	11	8	3	0	0	0	0	0	0	0	0	0	11	8	3
Washington	7	5	1	3	3	0	0	0	0	0	0	0	10	8	1
Wyoming	2	2	0	0	0	0	0	0	0	0	0	0	2	2	0

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<sup>a</sup>Includes 5 deaths due to natural causes (2 in California and 1 each in Pennsylvania, Nebraska, and Georgia), 1 suicide in Arkansas, and 1 murder by another inmate in Texas.

<sup>b</sup>Totals include persons of other races.

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# **Correction Notice**

## ***Capital Punishment 1990***

**Published in September 1991, NCJ 131648**

**On page 6, table 4, the number of white prisoners under sentence of death in Nevada, 12/31/90, should read "41" rather than "11," as originally published.**

**All original totals and subtotals were correct.**

**A corrected table is printed on the reverse side of this page.**

## Method of execution

At yearend 1990 lethal injection (21 States) and electrocution (13 States) were the most common methods of execution authorized (table 2). Six States authorized lethal gas; three States, hanging; and two States, a firing squad. Nine States authorized more than one method — lethal injection and an alternative method — generally at the election of the condemned prisoner or based on the date of sentencing.

Some States have stipulated an alternative to lethal injection, anticipating that it may be found unconstitutional. Each of the other four methods, previously challenged on eighth amendment grounds as cruel and unusual punishment, has been found to be constitutional. The method of execution for Federal offenders is that of the State in which the execution takes place.

## Automatic review

Of the 36 States with capital punishment statutes at yearend 1990, 34 provided for an automatic review of all death sentences. Arkansas and Ohio<sup>2</sup> had no specific provisions for automatic review. The Federal death penalty statute does not provide for automatic review after a sentence of death is imposed. While most of the 34 States authorized an automatic review of both the conviction and sentence, Idaho and

<sup>2</sup>ORC Section 2929.05 provides for review by the Court of Appeals and the Supreme Court "upon appeal."

Indiana require review of the sentence only.<sup>3</sup>

Typically the review is undertaken regardless of the defendant's wishes and is conducted by the State's highest appellate court. If either the conviction or the sentence is vacated, the case may be remanded to the trial court for additional proceedings or for retrial. It is possible that, as a result of retrial or resentencing, the death sentence may be reimposed.

## Minimum age

Nine States at the end of 1990 did not specify a minimum age at the time of the offense for which the death penalty may be imposed (table 3). In some States the minimum age is set forth in the statutory provisions that determine the age at which a juvenile may be transferred to criminal court for trial as an adult. Ten States and the Federal death penalty statute specify a minimum age of 18; the remaining States have indicated various ages of eligibility between 14 and 17.

## Prisoners under sentence of death at yearend 1990

A total of 34 States reported 2,356 prisoners under sentence of death on December 31, 1990, an increase of 113

<sup>3</sup>In Idaho, review of the conviction must be appealed or forfeited. In Indiana, a defendant may waive review of the conviction.

(5%) over the count at the end of 1989 (table 4). States with the largest number of prisoners under sentence of death were Texas (320), Florida (299), California (280), Illinois (128), and Pennsylvania (121).

Although 36 States (covering 78% of the Nation's adult population) had statutes authorizing the death penalty, 2 of these reported no prisoners under sentence of death at yearend (New Hampshire and South Dakota).

Of the 2,356 persons under sentence of death, 1,369 (58.1%) were in Southern States, 490 (20.8%) were in Western States, 364 (15.4%) were in States in the Midwest, and 133 (5.6%) were confined in the Northeastern States of Connecticut, New Jersey, and Pennsylvania.

During the year the largest percentage increase in the number of prisoners under sentence of death occurred in Western States with growth of 5.8% (an additional 27 offenders), followed by an increase of 5.5% (71 additional offenders) in the South, an increase of 4.6% (16 additional offenders) in the Midwest, and a decline of 1 prisoner in the Northeast. Six States reported a decline in the number of prisoners at the end of 1990, compared to a year earlier: Oregon reported 13 fewer than at the end of 1989; New Jersey reported a decline of 8 prisoners; Louisiana reported 4 fewer than

Table 5. Hispanics and women under sentence of death, by State, 1989 and 1990

	Under sentence of death, 12/31/89		Received under sentence of death		Death sentence removed <sup>a</sup>		Under sentence of death, 12/31/90	
	Hispanics	Women	Hispanics	Women	Hispanics	Women	Hispanics	Women
U.S. total	156	28	20	7	4	3	172	32
Alabama	0	5	0	0	0	0	0	5
Arizona	17	0	2	0	0	0	19	0
Arkansas	1	0	0	0	0	0	1	0
California	35	0	4	1	2	0	37	1
Colorado	1	0	0	0	0	0	1	0
Florida	24	2	4	1	0	1	28	2
Georgia	0	0	1	0	0	0	1	0
Idaho	1	0	0	0	0	0	1	0
Illinois	7	0	1	0	0	0	8	0
Indiana	2	1	0	0	0	1	2	0
Kentucky	0	1	0	0	0	0	0	1
Mississippi	2	2	0	2	0	0	2	3
Nevada	6	1	0	0	0	0	6	1
Missouri	0	2	0	0	0	1	0	1
North Carolina	1	2	0	3	0	0	1	5
Ohio	5	4	0	0	0	0	5	4
Oklahoma	4	4	1	0	0	0	5	4
Oregon	2	0	0	0	2	0	0	0
Pennsylvania	3	1	0	0	0	0	3	1
South Carolina	0	0	0	1	0	0	0	1
Tennessee	0	1	0	0	0	0	0	1
Texas	44	3	7	0	0	0	51	3
Utah	2	0	0	0	0	0	2	0

<sup>a</sup>No women or Hispanics were executed during 1990.

In 1989; Montana indicated the number declined by 2 prisoners; and, Delaware and Nebraska each had 1 less prisoner under sentence of death at the end of 1990.

During 1990 the number of whites under sentence of death increased from 1,308 to 1,375, the number of blacks increased from 898 to 943, and the number of persons of other races (American Indians, Asians, or Pacific Islanders) increased from 37 to 38.

The number of Hispanics grew from 156 to 172, and the number of women increased from 28 to 32 over the year (table 5). During the year, 20 Hispanics were received under sentence of death, 4 were removed from death row, and none was executed. The largest numbers of Hispanic prisoners under sentence of death on December 31, 1990, were in Texas (51), California (37), Florida (28), and Arizona (19). The 32 women under sentence of death at yearend 1990 were held in 14 States. Alabama (5), North Carolina (5), Ohio (4), and Oklahoma (4) held the largest numbers of women under a death sentence. Since 1977 one woman has been executed. The race of women under sentence of death at yearend 1990, by State, is as follows:

State	Total	Women	
		White	Black
Total	32	20	12
Alabama	5	3	2
North Carolina	5	5	0
Ohio	4	0	4
Oklahoma	4	3	1
Texas	3	2	1
Florida	2	2	0
Mississippi	2	0	2
California	1	1	0
Kentucky	1	1	0
Missouri	1	1	0
Nevada	1	0	1
Pennsylvania	1	0	1
South Carolina	1	1	0
Tennessee	1	1	0

Nearly 99% (2,324) of those under a sentence of death were male, and the majority, 58.4%, were white (table 6). Blacks constituted 40.0% of those under sentence of death, and another 1.6% were American Indians (24) or Asian Americans (14). Of those for whom ethnicity was known, just under 8% were Hispanic.

The race and sex of those under sentence of death at yearend 1990 were as follows:

	White	Black	Other
Male	1,355	931	38
Female	20	12	0

Table 6. Demographic profile of prisoners under sentence of death, 1990

Characteristic	Prisoners under sentence of death, 1990		
	Yearend	Admissions	Removals
Total number under sentence of death	2,356	244	131
<b>Sex</b>			
Male	98.6%	97.1%	97.7%
Female	1.4	2.9	2.3
<b>Race</b>			
White	58.4%	60.2%	61.1%
Black	40.0	38.5	37.4
Other*	1.6	1.2	1.5
<b>Ethnicity</b>			
Hispanic	7.9%	8.7%	3.4%
Non-Hispanic	92.1	91.3	96.6
<b>Education</b>			
7th grade or less	8.6%	5.6%	13.6%
8th		7.2	7.3
9th-11th	37.3	35.6	29.1
12th	35.1	36.7	39.1
Any college	10.1	15.0	10.9
Median education	11th grade	12th grade	12th grade
<b>Marital status</b>			
Married	28.9%	28.6%	29.1%
Divorced/separated	23.0	22.6	30.8
Widowed	2.4	5.5	2.6
Never married	45.7	43.2	37.6

Note: Percentage and median calculations are based on those cases for which data were reported. Missing data by category were as follows:

	Yearend 1990	Admissions 1990	Removals 1990
Ethnicity	188	13	12
Education	279	64	21
Marital status	172	45	14

\*Consists of 24 American Indians and 14 Asians present at yearend 1990, 2 American Indians and 1 Asian admitted during 1990, and 1 American Indian and 1 Asian removed during 1990.

Table 7. Age at time of capital sentencing and current age of prisoners under sentence of death, 12/31/90

Age	Prisoners under sentence of death			
	At time of sentencing		On December 31, 1990	
	Number	Percent	Number	Percent
Total under sentence of death on 12/31/90	2,356	100%	2,356	100%
17 or younger	7	.3	1	--
18-19	95	3.6	7	.3
20-24	596	25.3	168	7.1
25-29	622	26.4	474	20.1
30-34	461	19.6	636	27.0
35-39	285	12.1	429	18.2
40-44	162	6.9	311	13.2
45-49	74	3.1	188	8.0
50-54	33	1.4	78	3.3
55-59	19	.8	32	1.4
60 or older	12	.5	32	1.4
Median age		29		34

Note: The youngest person under sentence of death was a white inmate in Alabama born in January 1973 and sentenced to death in February 1990. The oldest person under sentence of death was a white inmate in Arizona born in September 1915 and sentenced to death in June 1983.  
-- Less than 0.05%.

A slightly higher percentage of inmates under sentence of death, for whom information on education was available, had attended some college (10.1%) compared to those who had not gone beyond seventh grade (8.6%). The median level of education was 11th grade. Less than a third (28.9%) of the condemned inmates for whom data on marital status were available were married. Nearly half (45.7%) of those under sentence of death had never been married.

The median age of those under sentence of death was nearly 34 years (table 7). About 0.3% were under age 20, and 2.8% were 55 or older. The youngest offender under sentence of death was 17 years old (born January 1973); the oldest was 75 years old (born September 1915). At the time their sentences were imposed, seven of those under sentence of death had been less than age 18. More than half of the inmates under sentence of death at the end of 1990 had been between ages 20 and 29 when they received their sentences.

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

During 1990, 22 State prison systems reported receiving prisoners under sentence of death (table 4). California reported the largest number (33), followed by Florida (31), Texas (24), and Illinois (17).

All of the 244 prisoners received under sentence of death were convicted of murder. Of these, 141 were white males, 93 were black males, 2 were American Indian males, 1 was an Asian male, 6 were white females, and 1 was a black female; 20 were Hispanics.

Twenty-two States reported a total of 101 persons whose sentence of death was vacated or commuted. Florida, North Carolina, and Oregon each reported 13 exits, and New Jersey reported 11 departures from death row because of vacated sentences. One State, Georgia, reported a single commutation of a death sentence. Of the 101 persons whose death sentence was vacated, commuted, or removed during 1990 — 66 had their sentence vacated but their conviction upheld by a higher court; 34 had both their conviction and sentence vacated; and, 1 had his sentence commuted.

At yearend, 32 of the 101 were serving a reduced sentence (30 to life imprisonment, 2 to a sentence of more than 20 years), 28 were awaiting a new trial, 36 were

awaiting resentencing, and 5 had further prosecution dropped.

In addition, seven persons died while under sentence of death in 1990. Five of these deaths resulted from natural causes — two in California and one each in Georgia, Nebraska, and Pennsylvania. Texas reported one death, a murder by another inmate, and Arkansas reported one death by suicide.

From 1977, the year after the Supreme Court reinstated the death penalty, through 1990, 3,451 persons were admitted to State prisons under a sentence of death; 1,335 persons had their death sentences removed over the same period as a result of appellate court decisions and higher court reviews, commutations, or death while under sentence; and 143 persons were executed.<sup>4</sup> Among death-sentence admissions, 2,017 (58.4%) were white, 1,380 (40.0%) were black, and 54 (1.6%) were of other races. Among those removed

<sup>4</sup> In prior years, movements have been reported rather than the number of unique individuals. The same individual may have had several movements entering or exiting death row. From 1977 to 1990, the 3,451 persons admitted under sentence of death had 3,590 admission movements. Over the period, there were 1,511 release movements and 1,335 persons actually removed. Race data are based on individuals and not movements.

from a death sentence other than by execution, 756 (56.6%) were white, 563 (42.2%) were black, and 16 (1.2%) were of other races. Of the 143 executed, 87 (60.8%) were white, and 56 (39.2%) were black.

#### Criminal history of inmates under sentence of death in 1990

Among those under sentence of death at yearend 1990 for whom criminal-history information was available, 59% had a history of felony convictions (table 9). Among those for whom information on prior homicide convictions was available, 8.7% had a previous conviction for that crime. Among those for whom legal status at the time of the capital offense was reported, 41% had an active criminal justice status: Half of these were on parole, while the rest had charges pending, were on probation, were prison inmates or escapees, or had some other criminal justice status. Excluding those with pending charges, more than 1 in 3 (34.4%) were already under sentence for another crime when the offense for which they were condemned occurred; in a number of States such status is considered an aggravating factor in capital sentencing.

Table 8. Criminal-history profile of prisoners under sentence of death, by race, 1990

	Prisoners under sentence of death				Percent <sup>a</sup>			
	Number				Percent <sup>a</sup>			
	All races <sup>b</sup>	White	Black	Hispanic	All races <sup>b</sup>	White	Black	Hispanic
U.S. total	2,356	1,215	933	172	100%	100%	100%	100%
<b>Prior felony convictions</b>								
Yes	1,522	757	642	105	69.2%	66.5%	74.3%	64.4%
No	678	382	222	58	30.8	33.5	25.7	35.6
Not reported	156	76	69	9				
<b>Prior homicide convictions</b>								
Yes	179	83	76	15	8.7%	7.8%	9.4%	9.9%
No	1,880	991	736	136	91.3	92.2	90.6	90.1
Not reported	297	151	121	21				
<b>Legal status at time of capital offense</b>								
Charges pending	139	78	50	7	6.8%	7.3%	6.2%	4.8%
Probation	161	92	57	10	7.8	8.6	7.1	6.8
Parole	417	171	205	37	20.3	16.0	25.5	25.3
Prison escapee	36	21	12	2	1.8	2.0	1.5	1.4
Prison inmate	64	33	24	7	3.1	3.1	3.0	4.8
Other status <sup>c</sup>	28	16	10	1	1.4	1.5	1.2	.7
None	1,206	658	445	82	58.8	61.6	55.4	56.2
Not reported	305	146	130	26				

<sup>a</sup> Percentages are based on those offenders for whom data were reported.

<sup>b</sup> Includes whites, blacks, Hispanics, and persons of other races.

<sup>c</sup> Includes 13 persons on furlough or work release, 4 persons on mandatory conditional release, 3 persons out on bail, 2 persons residing in halfway houses, 1 person residing in a pre-release center, 1 person confined in a local jail, 1 person under house arrest, 1 for whom charges were pending from the U.S. Army, 1 assigned to road gang work, and 1 on an accelerated release program.

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awaiting resentencing, and 5 had further prosecution dropped.

In addition, seven persons died while under sentence of death in 1990. Five of these deaths resulted from natural causes — two in California and one each in Georgia, Nebraska, and Pennsylvania. Texas reported one death, a murder by another inmate, and Arkansas reported one death by suicide.

From 1977, the year after the Supreme Court reinstated the death penalty, through 1990, 3,451 persons were admitted to State prisons under a sentence of death; 1,335 persons had their death sentences removed over the same period as a result of appellate court decisions and higher court reviews, commutations, or death while under sentence; and 143 persons were executed.<sup>4</sup> Among death-sentence admissions, 2,017 (58.4%) were white, 1,380 (40.0%) were black, and 54 (1.6%) were of other races. Among those removed

<sup>4</sup> In prior years, movements have been reported rather than the number of unique individuals. The same individual may have had several movements entering or exiting death row. From 1977 to 1990, the 3,451 persons admitted under sentence of death had 3,590 admission movements. Over the period, there were 1,511 release movements and 1,335 persons actually removed. Race data are based on individuals and not movements.

from a death sentence other than by execution, 756 (56.6%) were white, 563 (42.2%) were black, and 16 (1.2%) were of other races. Of the 143 executed, 87 (60.8%) were white, and 56 (39.2%) were black.

#### Criminal history of inmates under sentence of death in 1990

Among those under sentence of death at yearend 1990 for whom criminal-history information was available, 89% had a history of felony convictions (table 9). Among those for whom information on prior homicide convictions was available, 8.7% had a previous conviction for that crime. Among those for whom legal status at the time of the capital offense was reported, 41% had an active criminal justice status: Half of these were on parole, while the rest had charges pending, were on probation, were prison inmates or escapees, or had some other criminal justice status. Excluding those with pending charges, more than 1 in 3 (34.4%) were already under sentence for another crime when the offense for which they were condemned occurred; in a number of States such status is considered an aggravating factor in capital sentencing.

Table 8. Criminal-history profile of prisoners under sentence of death, by race, 1990

	Prisoners under sentence of death				Percent <sup>a</sup>			
	Number				Percent <sup>a</sup>			
	All races <sup>b</sup>	White	Black	Hispanic	All races <sup>b</sup>	White	Black	Hispanic
U.S. total	2,356	1,215	933	172	100%	100%	100%	100%
<b>Prior felony convictions</b>								
Yes	1,522	757	642	105	69.2%	66.5%	74.3%	64.4%
No	678	382	222	58	30.8	33.5	25.7	35.6
Not reported	156	76	69	9				
<b>Prior homicide convictions</b>								
Yes	179	83	76	15	8.7%	7.8%	9.4%	9.9%
No	1,880	991	736	136	91.3	92.2	90.6	90.1
Not reported	297	151	121	21				
<b>Legal status at time of capital offense</b>								
Charges pending	139	78	50	7	6.8%	7.3%	6.2%	4.8%
Probation	161	92	57	10	7.8	8.6	7.1	6.8
Parole	417	171	205	37	20.3	16.0	25.5	25.3
Prison escapee	36	21	12	2	1.8	2.0	1.5	1.4
Prison inmate	64	33	24	7	3.1	3.1	3.0	4.8
Other status <sup>c</sup>	28	16	10	1	1.4	1.5	1.2	.7
None	1,206	658	445	82	58.8	61.6	55.4	56.2
Not reported	305	146	130	26				

<sup>a</sup> Percentages are based on those offenders for whom data were reported.

<sup>b</sup> Includes whites, blacks, Hispanics, and persons of other races.

<sup>c</sup> Includes 13 persons on furlough or work release, 4 persons on mandatory conditional release, 3 persons out on bail, 2 persons residing in halfway houses, 1 person residing in a pre-release center, 1 person confined in a local jail, 1 person under house arrest, 1 for whom charges were pending from the U.S. Army, 1 assigned to road gang work, and 1 on an accelerated release program.

The criminal-history patterns were similar for whites and blacks, although higher percentages of blacks than whites had prior felony convictions, had prior homicide convictions, or were on parole at the time of the capital offense.

1977	— 1	1985	— 18
1979	— 2	1986	— 18
1981	— 1	1987	— 25
1982	— 2	1988	— 11
1983	— 5	1989	— 16
1984	— 21	1990	— 23

A total of 16 States have carried out executions since 1977. During the period, 78 white, non-Hispanic males; 8 white, Hispanic males; 55 black, non-Hispanic males; 1 black, Hispanic male; and 1 white, non-Hispanic female have been executed. The largest numbers of executions have occurred in Texas (37), Florida (25), Louisiana (19), and Georgia (14).

In 1990, Florida, Missouri, and Texas each carried out four executions; Virginia conducted three executions; Arkansas executed two persons; and Alabama, Illinois, Louisiana, Nevada, Oklahoma, and South Carolina each executed one person. The executions carried out by Arkansas, Illinois, and Oklahoma were the first by those States since reinstatement of the death penalty.<sup>5</sup> Those executed in 1990 were all non-Hispanic males, and included 16 whites and 7 blacks.

Since 1977, a total of 3,834 offenders have been under a death sentence for varying lengths of time (table 12). There were 143 executions (3.7% of those at risk) and 1,335 removals (34.8% of those at risk) during this period. A slightly higher percentage of whites than blacks or Hispanics were executed (4.0%, 3.6%, and 3.7%, respectively), and blacks had a slightly higher removal rate by means other than execution.

For those executed since 1977, the average time between the imposition of the most recent sentence received and exe-

<sup>5</sup>The most recent prior executions were conducted in Arkansas in 1964, in Illinois in 1962, and in Oklahoma in 1966.

Overall, the median elapsed time since sentencing was about 56 months for those under a sentence of death at yearend. The median time for women under a death sentence, 2 years, was much shorter than the median for men, nearly 5 years. Whites (median of 56 months) and blacks (median of 58 months) evidenced little difference in length of stay.

Median elapsed time since sentencing:

	Total	Males	Females
All races	56 mos.	56 mos.	24 mos.
White	56	56	24
Black	58	58	23
Other	49	49	--
Hispanic	48	48	--

--Too few cases for calculation of a median.

Beginning in 1988, data were first collected on the number of death sentences imposed upon each individual entering prisons under a sentence of death. Among the 821 individuals admitted between 1988 and 1990, nearly 15% entered with more than one death sentence (table 10). Blacks, whites, and Hispanics all had relatively similar distributions of single or multiple death sentences.

### Executions

Since 1930, when data on executions were first collected by the Federal Government, 4,002 executions have been conducted under civil authority (table 11). Since the death penalty was reinstated by the Supreme Court in 1976, the States have executed 143 persons:

cution was 6 years and 10 months (table 13). For the 23 prisoners executed during 1990, the average time spent under a death sentence was 7 years and 11 months, the same as in 1989. Black prisoners executed in 1990 had spent an average of 7 years and 7 months awaiting execution; whites, 8 years and 1 month.

The methods used for the 143 persons executed between 1977 and 1990 were —

	Executions, 1977-90			
	All	White	Black	Hispanic
Total	143	79	55	9
Lethal injection	54	34	12	8
Electrocution	83	42	41	0
Lethal gas	5	2	2	1
Firing squad	1	1	0	0

Table 10. Number of persons executed, by jurisdiction in rank order, 1930-90

State	Number executed	
	Since 1930	Since 1977
U.S. total	4,002	143
Georgia	380	14
Texas	334	37
New York	329	
California	292	
North Carolina	266	3
Florida	195	25
Ohio	172	
South Carolina	165	3
Mississippi	158	4
Pennsylvania	152	
Louisiana	152	19
Alabama	143	8
Arkansas	120	2
Kentucky	103	
Virginia	103	11
Tennessee	93	
Illinois	91	1
New Jersey	74	
Maryland	68	
Missouri	67	5
Oklahoma	61	1
Washington	47	
Colorado	47	
Indiana	43	2
West Virginia	40	
District of Columbia	40	
Arizona	38	
Nevada	34	5
Federal system	33	
Massachusetts	27	
Connecticut	21	
Oregon	19	
Iowa	18	
Utah	16	3
Kansas	15	
Delaware	12	
New Mexico	8	
Wyoming	7	
Montana	6	
Vermont	4	
Nebraska	4	
Idaho	3	
South Dakota	1	
New Hampshire	1	
Wisconsin	0	
Rhode Island	0	
North Dakota	0	
Minnesota	0	
Michigan	0	
Maine	0	
Hawaii	0	
Alaska	0	

Table 9. Number of death sentences received by those sentenced to death between January 1, 1988, and December 31, 1990, by race or ethnicity

Number of death sentences received	Race or ethnicity			
	Total*	White	Black	Hispanic
Total	100.0%	100.0%	100.0%	100.0%
1	85.3	84.7	86.6	83.6
2	10.5	11.1	8.8	12.3
3 or more	4.3	4.2	4.6	4.1
Number admitted under sentence of death 1988-1990	821	425	307	73

Note: Totals may not add to 100% due to rounding. All 821 received their death sentence for murder.

\*Includes 16 persons of other races.

## Appendix I. Current status of inmates under sentence of death, 1979-90

Since 1973 a total of 4,177 individuals have been sentenced to death (appendix table 1). The table shows the status of those received in each year with respect to their death sentence as of December 31, 1990. For example, of the 187 persons whose sentence to death occurred in 1978, 23 have been executed, 3 have died while in confinement, 21 have been relieved of the death sentence because courts struck down wholly or in part the statutes under which they were sentenced, 34 have had their conviction overturned on appeal, 55 have had their sentence overturned on appeal, 8 have had their sentence commuted, and 43 were still under a death sentence at yearend 1990. Of the 2,356 persons under sentence of death on December 31, 1990, 153 or 6.5% were sentenced prior to 1980.

Of the 2,356 persons under sentence of death at yearend 1990, inmates in Florida, Georgia, Texas, and Utah had served the longest under sentence of death among all condemned inmates (appendix table 2). By contrast, Colorado, Connecticut, New Mexico, and Oregon had no inmates sentenced prior to 1987.

## Appendix II. Federal laws providing for the death penalty

Since the Supreme Court's decision in *Furman v. Georgia* in 1972, striking down the death penalty as then applied, four death penalty statutes have been enacted by the Congress:

- (A) Any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A) or section 960(b)(1) who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and (B) any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this subchapter or subchapter II of this chapter who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of

such officer's official duties and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death (21 U.S.C. 848(e)).

- Espionage by a member of the Armed Forces: communication of information to a foreign government relating to nuclear weaponry, military spacecraft or satellites, early warning systems, war plans, communications intelligence or cryptographic information, or any other major weapons or defense strategy (10 U.S.C. 906(a)).
- Witness tampering where death results (18 U.S.C. 1512).
- Death resulting from aircraft hijacking (49 U.S.C. at 1472 and 1473).

At the end of 1990, five males were awaiting execution under a military death sentence for murder. The following capital punishment provisions, which were enacted prior to the Furman decision, remain in the United States Code:

- Murder while a member of the Armed Forces (10 U.S.C. 918)
- Destruction of aircraft, motor vehicles, or related facilities resulting in death (18 U.S.C. 32-34)
- Retaliatory murder of a member of the immediate family of law enforcement officials (18 U.S.C. 115(b)(3) [by cross-reference to 18 U.S.C. 1111])
- Murder of a member of Congress, an important executive official, or a Supreme Court Justice (18 U.S.C. 351 [by cross-reference to 18 U.S.C. 1111])

Table 11. Percentage of those under sentence of death who were executed or who received other dispositions, by race, or ethnicity 1977-90

Race or ethnicity <sup>b</sup>	Total under sentence of death, 1977-90 <sup>c</sup>	Prisoners executed		Prisoners who received other dispositions <sup>a</sup>	
		Number	Percent of total	Number	Percent of total
All races or ethnic groups	3,834	143	3.7%	1,335	34.8%
White	1,991	79	4.0	697	35.0
Black	1,548	55	3.6	560	36.2
Hispanic	243	9	3.7	62	25.5
Other <sup>d</sup>	52	0	0	16	30.8

<sup>a</sup>Includes persons removed from a sentence of death because of statutes struck down on appeal, sentences or convictions vacated, commutations, or death other than by execution. Of the 1,335 removals, 80 resulted from death other than by execution.

<sup>b</sup>White, black, and other categories exclude Hispanics — among the 243 Hispanics, 227 were white, 14 were black, and 2 were of other races.

<sup>c</sup>Includes those persons sentenced to death prior to 1977 who were still under sentence of death on 12/31/90 (35), those persons sentenced to death prior to 1977 whose death sentence was removed between 1977 and 12/31/90 (348), and those persons sentenced to death between 1977 and 12/31/90 (3,451).

<sup>d</sup>Includes American Indians, Alaska Natives, Asians, and Pacific Islanders.

Table 12. Time between imposition of death sentence and execution, by race, 1977-89

Year of execution	Number executed			Average elapsed time from sentence to execution for:		
	All races	White	Black	All races	White	Black
Total	143	87	56	82 mos.	76 mos.	91 mos.
1977-89	11	9	2	51	49	58
1984	21	13	8	74	76	71
1985	18	11	7	71	65	80
1986	18	11	7	87	78	102
1987	25	13	12	86	78	96
1988	11	6	5	80	72	89
1989	16	8	8	95	78	112
1990	23	16	7	95	97	91

Note: Average time was calculated from the most recent sentencing date. The range for elapsed time for the 143 executions was from 3 months to 170 months. Some numbers have been revised from those previously reported. The average elapsed time for the 8 white Hispanics and 1 black Hispanic case was 83 months. They are included in the white and black categories in the table.

- Espionage (18 U.S.C. 794)
- Death resulting from transportation of explosives, destruction of government property, or use of explosives (18 U.S.C. 844(d),(f),(l))
- First-degree murder (18 U.S.C. 1111)
- Murder of Federal Judges and officers (18 U.S.C. 1114)
- Mailing of injurious articles with the intent to kill or resulting in death (18 U.S.C. 1716)
- Assassination or kidnaping resulting in the death of the President or Vice President (18 U.S.C. 1751 [by cross-reference to 18 U.S.C. 1111])
- Willful wrecking of a train resulting in death (18 U.S.C. 1992)
- Bank-robbery-related murder or kidnaping (18 U.S.C. 2113)
- Treason (18 U.S.C. 2381).

Persons executed, 1930-90

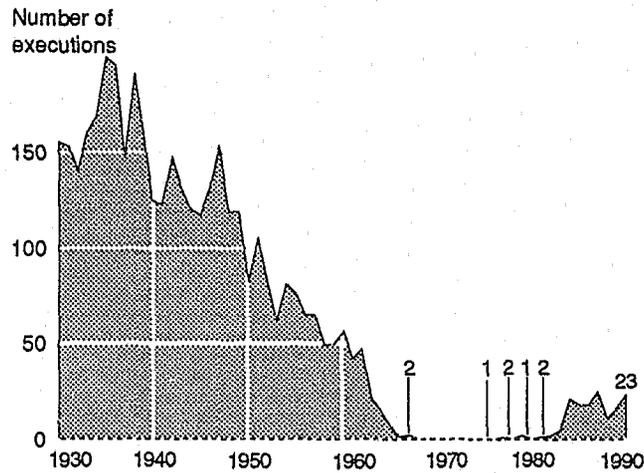


Figure 3

Appendix table 1. Prisoners sentenced to death and the outcome of their sentence by year of sentencing, 1973-90

Year of sentence	Number sentenced to death	Number of prisoners removed from death row							Under sentence of death 12/31/90
		Executed	Died	Appeal or higher courts overturned:				Other or unknown reasons	
				Death penalty statute	Conviction	Sentence	Sentence Commuted		
1973	42	2	0	14	9	8	9	0	0
1974	151	8	4	65	15	28	22	1	8
1975	299	5	3	171	23	62	21	2	12
1976	234	9	5	137	16	37	15	0	15
1977	139	13	2	40	26	31	7	0	20
1978	187	23	3	21	34	55	8	0	49
1979	157	11	8	2	27	48	6	0	55
1980	184	13	11	3	29	41	4	0	83
1981	238	15	8	0	35	61	3	1	115
1982	274	13	10	0	21	50	4	0	176
1983	257	11	8	1	16	39	2	1	179
1984	291	13	7	1	29	45	4	7	185
1985	286	1	2	1	23	44	2	4	209
1986	314	1	6	0	28	37	3	5	234
1987	303	1	3	1	25	27	0	4	242
1988	310	3	3	0	8	19	0	0	277
1989	267	1	1	0	2	3	0	0	260
1990	244	0	1	0	0	0	0	0	243
Total, 1973-90	4,177	143	85	457	366	635	110	25	2,356

**Methodological note**

The statistics reported in this Bulletin may differ from data collected by other organizations for a variety of reasons: (1) Inmates are originally added to the National Prisoner Statistics (NPS) death-row counts not at the time the court hands down the sentence but at the time they are admitted to a State or Federal correctional facility. (2) Subsequently, admissions to death row or releases as a result of a court order are attributed to the year in which the sentence or court order occurred; prior-year counts are, therefore, adjusted to reflect the actual dates of court decisions (see note, table 4). (3) NPS death-row counts are always for the last day of the calendar year and thus will differ from counts for more recent periods.

**1990 U.S. Supreme Court decisions cited**

**Blystone v. Pennsylvania** 110 S.Ct. 1078 (1990)

**McKoy v. North Carolina** 110 S.Ct. 1227 (1990)

**Boyd v. California** 110 S.Ct. 1190 (1990)

**Saffle v. Parks** 110 S.Ct. 1257 (1990)

**Butler v. McKellar** 110 S.Ct. 1212 (1990)

**Clemons v. Mississippi** 58 LW 4395 (1990)

**Whitmore v. Arkansas** 58 LW 4495 (1990)

**Sawyer v. Smith** 110 S.Ct. 2822 (1990)

**Lewis v. Jeffers** 110 S.Ct. 3092 (1990)

**Walton v. Arizona** 110 S.Ct. 3047 (1990)

**Shell v. Mississippi** 111 S.Ct. 313 (1990)

**Minnick v. Mississippi** 59 LW 4037 (1990)

**Other cases cited:**

**Arizona v. Roberson** 108 S.Ct. 2093 (1988)

**Maynard v. Cartwright** 486 US 356 (1988)

**Caldwell v. Mississippi** 105 S.Ct. 2633 (1985)

**State notes**

**Colorado** — revised 16-11-103 (1)(b), Colo. Rev. Stat., to provide for sentences to life without the possibility of parole and 16-11-103 (6)(j.5) and (j.8) to incorporate intentional murders of victims under the age of 18 and intentional murders in furtherance of illegal drug sales or distribution as aggravating factors. Effective date 7/1/90.

**Illinois** — revised Chapter 38, 9-1(b)(6) (c) and (b)(10), Ill. Rev. Stat., to incorporate additional aggravating factors in the determination of death penalty eligibility: murder in the course of the felony of criminal drug conspiracy; murder in the course of residential burglary; and murder committed in a cold, calculated, and premeditated manner pursuant to a preconceived plan, scheme, or design to take human life. Effective 1/1/90.

**Appendix table 2. Prisoners under sentence of death on December 31, 1990, by State and year of sentencing**

State	Year of death sentence																		Under sentence of death 12/31/90
	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990		
Total sentenced to and remaining on death row, 12/31/90																			
Florida	3	7	7	4	14	14	11	10	22	19	24	19	20	23	34	37	31	299	
Georgia	2	1	2	4	5		3	4	7	5	7	6	10	12	5	11	14	98	
Texas	2	2	4	6	9	5	14	17	21	25	16	34	38	36	34	33	24	320	
Utah	1									1		3		1	2	3		11	
Montana		1								1				1	2	1		6	
Nebraska		1			4		1	1			2		1		1			11	
Arizona			1	1		8	9	4	9	6	5	6	2	9	12	8	11	91	
Mississippi			1	2			3	4	6	1	1	2	4	7	3	3	10	47	
Arkansas				1		1	1	5	2	1		2	3	3	2	5	7	33	
Nevada				1		2	1	3	5	5	4	5	4	5	6	11	5	57	
Oklahoma				1	2	1	2	3	3	8	14	8	16	15	22	14	9	118	
California					2	10	4	19	31	29	26	16	24	26	31	29	33	280	
Indiana					1	1	2	4	2	5	5	8	4	4	8	1	3	48	
Kentucky					1	1	1	2	5	4	1	2	4	3	2	1		26	
Tennessee					5	1	4	6	4	6	7	11	9	10	6	7	8	84	
Alabama						1	2	5	14	12	9	8	8	12	12	20	14	117	
Illinois						3	12	8	6	12	8	12	17	8	14	11	17	128	
Maryland						1		1	5		4		1		1	2	4	19	
Missouri						1	1	5	5	2	6	8	9	9	16	4	6	72	
North Carolina						2	4	4	3	5	3	12	2	11	15	9	14	84	
South Carolina						2	3	3	1	5	4	4	8		2	7	3	42	
Virginia						2	1	1	3	1	7	1	10	6	3	4	6	45	
Delaware							2		2				1		1			6	
Louisiana							1		3	2	4	9	3	8	1			31	
Pennsylvania							1	5	7	10	8	13	17	12	21	18	9	121	
Idaho								1	4		5	1	1		3	3	1	19	
Ohio									2	12	15	18	15	11	14	10	8	105	
Washington									2	2		1	1	1			3	10	
Wyoming									2									2	
New Jersey													2	4		1	3	10	
Colorado														3				3	
Connecticut														1		1		2	
New Mexico														1				1	
Oregon															4	6		10	
Totals	8	12	15	20	43	55	83	115	176	179	185	209	234	242	277	260	243	2,356	

**Indiana** — revised IC 35-50-2-9 to correct cross-references to kidnaping and criminal confinement statutes under the listing of aggravating circumstances. Effective date 3/20/90.

**Louisiana** — revised La.R.S. 15:569 to provide for lethal injection as the method of execution for death sentences imposed on or after January 1, 1991.

**Missouri** — revised R.S.Mo. 565.020 to exclude first-degree murder committed by persons under age 16 from capital sentencing. Effective date 8/28/90.

**New Hampshire** — revised the listing of capital murder offenses (N.H. RSA 630:1) and all procedures relating to capital murder (630:5). Effective date 1/1/91.

**Appendix table 3. Executions, by State and method, 1977-90**

State	Number executed	Method of execution			
		Lethal injection	Electro-cution	Lethal gas	Firing squad
Total	143	54	83	5	1
Texas	37	37			
Florida	25		25		
Louisiana	19		19		
Georgia	14		14		
Virginia	11		11		
Alabama	8		8		
Missouri	5	5			
Nevada	5	4		1	
Mississippi	4			4	
North Carolina	3	3			
South Carolina	3		3		
Utah	3	2			1
Arkansas	2	1	1		
Indiana	2		2		
Illinois	1	1			
Oklahoma	1	1			

Note: This table shows the distribution of execution methods used since 1977. As can be seen, the most frequently used method, electrocution, was used in 60% of the executions carried out. Lethal injection accounted for 35% of the executions. Two States, Nevada and Utah, have employed two methods.

**Appendix table 4. Number under sentence of death and removals, by jurisdiction and reason for removal, 1977-90**

State	Total under sentence of death, 1977-90	Number of removals, 1977-90					Under sentence of death 12/31/90
		Executed	Died	Sentence or conviction overturned	Sentence commuted	Other removals	
U.S. total	3,834	143	80	1,146	86	23	2,356
Federal	1	0	0	1	0	0	0
Alabama	179	8	2	51	1	0	117
Arizona	138	0	3	43	1	0	91
Arkansas	57	2	1	21	0	0	33
California	360	0	10	54	15	1	280
Colorado	12	0	1	8	0	0	3
Connecticut	2	0	0	0	0	0	2
Delaware	9	0	0	3	0	0	6
Florida	544	25	9	202	7	2	299
Georgia	216	14	6	96	2	0	98
Idaho	26	0	1	6	0	0	19
Illinois	176	1	2	37	0	8	128
Indiana	68	2	1	17	0	0	48
Kentucky	47	0	1	19	1	0	26
Louisiana	112	19	3	56	2	1	31
Maryland	31	0	1	9	2	0	19
Mississippi	89	4	1	34	0	3	47
Missouri	85	5	2	6	0	0	72
Montana	11	0	0	4	1	0	6
Nebraska	19	0	2	4	2	0	11
Nevada	76	5	2	10	2	0	57
New Jersey	34	0	1	15	0	8	10
New Mexico	8	0	0	2	5	0	1
New York	3	0	0	3	0	0	0
North Carolina	146	3	4	53	2	0	84
Ohio	224	0	3	116	0	0	105
Oklahoma	162	1	2	41	0	0	118
Oregon	26	0	0	16	0	0	10
Pennsylvania	169	0	3	44	1	0	121
Rhode Island	2	0	0	2	0	0	0
South Carolina	80	3	3	32	0	0	42
Tennessee	133	0	3	46	0	0	84
Texas	478	37	9	70	42	0	320
Utah	20	3	0	6	0	0	11
Virginia	63	11	2	5	0	0	45
Washington	19	0	1	8	0	0	10
Wyoming	9	0	1	6	0	0	2

**South Dakota** — revised SDCL 23A-27A-3 on jury instructions for considering aggravating and mitigating circumstances. Effective date 7/1/90.

**Tennessee** — added TCA 39-13-203 that prohibits the imposition of a death sentence to defendants convicted of first-degree murder who are found to have been mentally retarded at the time of the offense. The addition also provides that should the court determine the defendant was not mentally retarded, the defendant may still present evidence of diminished intellectual capacity as a mitigating circumstance. Effective date 7/1/90.

**Virginia** — amended 18.2-31 by adding willful, deliberate, and premeditated killings arising from violations of controlled substances statutes to the definitions of capital murder. Effective date 7/1/90.

**Washington** — revisions to RCW 10.95.160 and 10.95.200 detail the procedures for setting execution dates after a stay of execution has been terminated or vacated. Effective date 6/8/90.

Bureau of Justice Statistics Bulletins are written principally by BJS staff. This report was written by Lawrence A. Greenfeld. Tom Hester edited the report, and Peter Brien provided statistical review. Marilyn Marbrook supervised production, assisted by Betty Sherman, Jayne Pugh, and Yvonne Boston. BJS Bulletins are produced under the direction of Michael W. Agopian, Deputy Director for Data Analysis.

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The Assistant Attorney General is responsible for matters of administration and management with respect to the OJP agencies: the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. The Assistant Attorney General further establishes policies and priorities consistent with the statutory purposes of the OJP agencies and the priorities of the Department of Justice.

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