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Developments on the death penalty during 1995

Introduction

At the end of 1995 an unprecedented number of prisoners - over 3,000 - were under sentence of death in 34 states and under US federal military law (8 prisoners) and US federal civilian law (6 prisoners). Fifty-six prisoners were executed; a higher total than in any previous single year since states revised their death penalty statutes in the mid-1970s. This brings to 313 the total number of prisoners executed in the USA since 1977. New York became the thirty-eighth state to reintroduce the death penalty in March 1995.

The states of Pennsylvania and Montana carried out their first executions since the death penalty resumed in 1977. However the two prisoners executed in Pennsylvania had chosen to abandon their appeals and had sought execution. Pennsylvania has yet to carry out a non-consensual execution. Texas was responsible for over one third of the year's executions (19). Other executions were carried out in Missouri (six); Illinois and Virginia (five each); Florida and Oklahoma (three each); Alabama, Arkansas, Georgia and North Carolina (two each); Arizona, Delaware, Louisiana and South Carolina (one each). No prisoners were granted clemency during 1995.

Racial discrimination in the use of the death penalty continues to be a major concern. Of the 56 prisoners executed during 1995, 39 (69%) had been convicted of the murder of white victims. Twenty-six (46%) of the prisoners executed in 1995 were from ethnic minorities. Of the executions since 1977, 100 (31%) have been for a black killing a white; 5 (1.5%) have been for a white killing a black. Eighty-two percent of those executed had been convicted of a murder involving a white victim.

At the end of 1995 at least 44 juvenile offenders were under sentence of death in 13 states; all had been convicted of murders committed when they were 16 or 17-years-old. This represents an increase of 7 from the end of 1994. No juvenile offenders were executed during the year.

At least 11 of the prisoners executed during 1995 were reported to be suffering from a mental illness or mental retardation. Frequently, information regarding the defendant's mental impairment(s) was not uncovered by defence counsel at the time of the trial, and was not made known to the jury responsible for passing the death sentence. In the case of Anthony Joe LaRette, executed in Missouri in November, the jury were unaware of his long history of treatment for mental health problems and that he had been diagnosed as suffering from temporal lobe epilepsy. A mental evaluation ordered by the defence failed to discover LaRette's history of treatment and concluded that he did not suffer from any mental health disorder. Seven prisoners were executed after abandoning their appeals and allowing the state to carry out their executions; at least three suffered from mental health problems.

Amnesty International continues to be concerned by the poor quality of legal representation afforded to capital defendants at trial. Evidence indicated that many of the prisoners executed in 1995 received inadequate legal representation at their trials with court-appointed attorneys failing, for example, to present crucial mitigating evidence to the sentencing hearing. In the case of Calvin Burdine the defence attorney fell asleep on several occasions during the trial. Denying an appeal based on evidence that the defence attorney slept, the Texas Court of Criminal Appeals ruled that it had not been shown that this had prejudiced the outcome of the trial. However, a higher court stayed Burdine's execution to allow for further hearings on the issue.

USA: Death penalty developments 1995

There were doubts concerning the guilt of several of those executed during 1995. Jesse DeWayne Jacobs was executed in Texas, in January. The jury that sentenced him to death believed that he had shot the victim. However, at a later trial, Jacobs' sister was convicted of the manslaughter of the victim. Dennis Stockton, executed in Virginia in September, was convicted on the evidence of a criminal who sought leniency in exchange for his testimony. In the case of Leonel Herrera¹ the US Supreme Court stated that "Clemency...is the historic remedy for preventing miscarriage of justice where judicial process has been exhausted". In 1995 clemency was refused in all the cases where doubts existed concerning the guilt of the prisoner about to be executed.

Two pieces of legislation passed by the US Congress were designed to shorten the time death row inmates spend in the appeal process. The funding for Post Conviction Defender Organisations (PCDOs) was removed. Attorneys from the PCDOs had represented almost half of those on death row. In separate legislation, Congress sought to impose time limits on the filing of habeas corpus appeals for prisoners under sentence of death. The full range of appeals available to death row inmates can currently take up to 20 years.

Amnesty International opposes the death penalty unconditionally, considering it to be an extreme form of cruel, inhuman and degrading punishment. Witnesses to the execution of Jerry White, by electrocution in Florida in December, reported that he screamed. The cries of pain were within the hearing of White's fellow death row inmate Philip Atkins, who was executed the following day.

The US continues to defy international trends away from the use of the death penalty. In 1995 South Africa abolished the death penalty for common crimes and Mauritius and Spain abolished it for all crimes. Albania, Moldova and Ukraine all committed themselves to an immediate moratorium on executions. By the end of the year more than half the countries in the world had abolished the death penalty in law or practice.

¹For further information see: *USA: Death Penalty Developments in 1992, AI Index: AMR 51/25/93*

Amnesty International February 1996 AI Index: AMR 51/01/96

Execution of the mentally retarded

Varnall Weeks, executed in Alabama on 12 May, had been diagnosed as being severely mentally ill and suffering from "longstanding paranoid schizophrenia." Psychologists testifying for both the prosecution and the defence agreed that he suffered from pervasive and bizarre religious delusions. Weeks believed that he was God, that his execution was part of a millennial religious scheme to destroy mankind, and that he would not die but rather that he would be transformed into a tortoise and reign over the universe.

No evidence of Varnall Weeks' mental condition was introduced at his original trial in 1982. He was convicted of the murder of Mark Batts. Having been found guilty, Weeks waived his right to be sentenced by the jury and asked the judge to sentence him to death.

In a ruling on 25 April 1995, an Alabama judge acknowledged that Weeks believed he was God in various manifestations, such as God the Father, Jesus Christ and Allah, and that he was a schizophrenic paranoid who suffered from delusions. The ruling went on to say that Weeks was "insane" according to "the dictionary generic definition of insanity" and what "the average person on the street would regard to be insane." However, the judge ruled that the electrocution could proceed because Weeks' ability to answer a few limited questions about his execution proved that he was legally 'competent'.

Anthony Joe LaRette was executed in Missouri on 29 November. He was sentenced to death in 1982 for the murder of Mary Flemming and was Missouri's longest serving death row inmate.

LaRette had a long history of mental illness going back to his childhood. At school he was diagnosed as having learning difficulties and developed abnormal behaviour, including auditory hallucinations, after two childhood accidents. Two weeks after the second accident (which involved a blow to the head from a baseball bat), LaRette, then 9-years-old, first exhibited assertive behaviour and attacked a female family friend. He was diagnosed as suffering from psychomotor epilepsy and placed on a course of drugs. However, his outbursts of aggressive behaviour, which were often of a sexual nature, continued. LaRette would frequently find himself about 20-25 miles away from home and "would wake and realise I was lost frightened and scared". LaRette continued with treatment for his mental illness. The doctor treating him reported that sexual offences such as indecent exposure, choking of older women and rape were possibly committed during black-out spells. During this time LaRette spent at least two years in mental hospital.

In 1968, LaRette joined the army but was discharged because of his mental illness. He spent most of the following years in mental institutions, where he was diagnosed as suffering from temporal lobe epilepsy, or in prison.

In 1977, LaRette took an unauthorized absence from the mental health institution where he was being cared for and stopped taking his medication. He married his second wife and became involved with drug abuse.

In 1980, on his wedding anniversary, LaRette found his wife in bed with another man. He attempted to kill his wife twice in two weeks and began to experience increasing anger. It was immediately after this that he was accused of killing Mary Flemming. A few days later, after having hallucinated that he killed his wife, he attempted to kill himself by stabbing himself three times in the chest and slashing his neck three times.

Despite the fact that he was charged with a crime carrying a possible death sentence, LaRette was assigned a lawyer who had no prior criminal trial experience. The attorney requested a mental evaluation of LaRette based on his suicide attempt. The evaluation found, without having referred to LaRette's extensive prior mental records, that he had no mental disorder. No second evaluation was ever requested.

No defence witnesses were called during LaRette's trial and the jury took just 82 minutes to decide a guilty verdict. The penalty phase of the trial lasted less than one hour, during which the only mitigating evidence presented by LaRette's attorney was the reading of a statement which included details of how upset LaRette was after finding his wife in bed with another man. LaRette sat with his head between his legs during the penalty phase of the trial. Having been given no details of LaRette's mental illness, the jury recommended a sentence of death.

The risk of executing the innocent

Jesse DeWayne Jacobs was executed in Texas on 4 January. He was sentenced to death in 1986 for the murder of Etta Ann Urdiales. At his trial, the prosecution had argued that "the simple fact is that Jesse Jacobs, and Jesse Jacobs alone, killed Etta Ann Urdiales." Seven months later Jacobs' sister, Bobbie Jean Hogan, was also put on trial for the murder of Urdiales. At Hogan's trial the same district attorney, Peter Speers, who had prosecuted Jacobs' case told the jury that "through the course of it all I have changed my mind about what actually happened. And I'm convinced that Bobbie Hogan is the one who pulled the trigger." Jesse Jacobs was a "central" witness in Hogan's trial and the prosecution urged the jury to believe him. Bobbie Jean Hogan was convicted of shooting Urdiales and was sentenced to ten years imprisonment for involuntary manslaughter.

Jacobs remained on death row despite the fact that his sister had been convicted of shooting Etta Ann Urdiales. The prosecution argued that Jacobs was still guilty of a capital offence as an accessory to the murder. However, this argument ignored the fact that the jury who sentenced Jacobs to death believed him to be the triggerman in the killing of Urdiales and that the prosecution had put forward two different versions of the killings at the two trials.

The US Supreme Court denied Jacobs' motion for a stay of execution on the grounds that it could not overturn the jury's determination of fact. In his dissent from the majority decision, Supreme Court Justice Stevens wrote: "I find this course of events deeply troubling. If the prosecutor's arguments at the trial of Jacob's sister are to be believed, then Jacobs is innocent of capital murder. In my opinion, it would be fundamentally unfair to execute a person on the basis of a factual determination that the state had formally disavowed."

In his final statement in the execution chamber, Jesse DeWayne Jacobs protested the injustice of his death, stating: "There is not going to be an execution. This is premeditated murder by the appointed district attorney and the State of Texas. I am not guilty of this crime."

The execution of Jesse Jacobs was widely condemned. The semi-official Vatican City newspaper, *L'Osservatore Romano*, stated in an editorial entitled "A Grave Defeat for Justice", that the "execution was not only incredible, but monstrous and absurd." It went on to describe the US Supreme Court's decision that it could not overturn a jury's error as "pedantic and inhumane when a human life was involved."

Girvies Davis was executed in Illinois on 17 May. He was sentenced to death for the murder of 89-year-old Charles Biebel during a burglary in 1979.

Davis was initially arrested for armed robbery. According to the police, ten days after his arrest, Davis gave officers a handwritten note listing 11 murders he had committed. The police then took Davis on a tour of the crime scenes, during which he confessed to nine murders. However, Davis claims he was taken from his cell and driven to a deserted highway where he was offered the "choice" of signing pre-written confessions or being shot while trying to "escape". Davis states that he never saw the original note until it was held up as state's evidence in court. The note was reported to clearly show two different sets of handwriting and was written in "flowing" script.

According to records, Davis had dropped out of school, was illiterate and would have been incapable of writing the original confession. Davis had been diagnosed as having an "organic brain disorder" and was mentally retarded. One of the police officers who took the confessions admitted that it was not read back to Davis. The prosecution later conceded that at least three of the murders to which Davis confessed were committed by other people.

Davis admitted his involvement in the armed robbery for which he was arrested but consistently maintained his innocence of any murder. Davis' alleged confessions were the principle evidence against him in three of the four murder charges he eventually faced. In the case of Charles Biebel, for whose murder Davis was executed, no physical evidence linked him to the crime and he was convicted solely on the strength of his confession.

Davis was tried by an all-white jury following the prosecution's use of peremptory challenges (the right to exclude jurors without giving reasons) to remove all potential black jurors. The jury were unaware that Davis could not have written his confession, and that he could not have read the confessions he signed. During the prosecution's arguments that the death penalty should be imposed, murders that Davis could not have committed were cited to justify a death sentence.

Larry Griffin was executed in Missouri on 21 June. He had been sentenced to death in 1980 for the murder of Quintin Moss during a drive-by shooting. There were apparently numerous witnesses to the shooting of Moss, but only one witness, Robert John Fitzgerald, came forward and identified Griffin as one of three men involved in the shooting. Fitzgerald identified Griffin from photographs shown to him at the police station. His testimony was the only direct

evidence against Griffin. Two other witnesses came forward after the trial to claim that Griffin was not involved in the shooting. New information from Fitzgerald alleged serious improprieties in the process leading to the identification. Fitzgerald later testified that he was shown Griffin's photograph, and told he was the man involved before he picked out the same photograph from a photo array. He further recanted the positive identification he made of Griffin in court as one of the persons he had seen shoot Moss.

Larry Griffin was represented at trial by an inexperienced lawyer who had never handled a murder case before, still less a capital case. He failed to conduct an adequate investigation of many aspects of the case and, by his own admission, did not prepare at all for the penalty phase. Had Griffin been represented by more experienced counsel, discrepancies in the trial evidence, and the alleged improprieties in the photo identification, might have been revealed at an earlier stage.

Dennis Stockton was executed in Virginia on 27 September after being sentenced to death in 1983 for the murder of Kenneth Arnder in 1978.

Kenneth Arnder's body was found in North Carolina. It was alleged that he was killed in Virginia and his body was moved. Officials from North Carolina investigated the killing in 1978 but no charges were filed.

At Dennis Stockton's trial in 1982 the state of Virginia's case against him rested heavily on the testimony of a witness, Randy Bowman, who later reportedly confessed to the murder himself. Randy Bowman claimed to have been at a meeting during which Stockton was hired to kill Arnder for a fee of \$1,500. At the time of Stockton's trial, Bowman was serving a prison sentence for larceny and firearm offences, and allegations that he was offered an incentive to testify against Stockton cast serious doubt on his credibility.

The prosecution claimed that Bowman had not been offered any incentives for his testimony. However, in a letter written in 1990 by prosecuting attorney Anthony Giorno to Stockton's defence attorneys, Giorno stated: "I am not aware of any promises made to Bowman other than that I told him I would endeavour to see that he would be transferred [to a different prison]." Enclosed with Giorno's letter was a letter written by Bowman to the prosecution two weeks before the trial which said: "I am writing to you to let you know that I'm not going to court unless you can get this 6 or 7 months I've got left cut off [his prison sentence] where I don't have to come back to prison."

In 1994 Stockton's defence attorneys obtained affidavits from law enforcement officials stating that Bowman had become angry after Stockton's trial "because promises allegedly made to him were not kept." According to the affidavits, Bowman alleged that he had been promised a reduction in his sentence or that he would be transferred to another prison. Seventeen days after Stockton was sentenced to death prosecutors dropped charges of obtaining stolen property against Bowman. Fourteen months after the trial Bowman was released on parole.

In 1987, a federal judge set aside Stockton's death sentence and offered him the choice of life

imprisonment or a new sentencing hearing when he heard that the 1983 jury had been tainted by hearing the owner of a diner where they ate lunch say that Stockton "should be executed". Stockton, insisting on his innocence, chose a new sentencing hearing. However, the law does not allow for evidence concerning guilt or innocence to be heard at a re-sentencing hearing and Stockton was again sentenced to death.

Tommy McBride, who, according to Bowman, had hired Stockton for the killing, was charged with conspiracy to commit capital murder but was never tried. McBride's case was sent to be tried in North Carolina, but the authorities there said there was no "credible" evidence against McBride. A motion to dismiss the charges against McBride in Virginia alleged that his indictment "was designed only to impeach" McBride's credibility as a possible defence witness for Stockton.

On 25 September 1995, a district-court judge ordered a 60-day stay of execution after defence attorneys presented affidavits from Bowman's former wife, son and a friend stating that Bowman had admitted to committing the murder. A Virginia newspaper reported that Bowman had also confessed to a journalist. However, a federal court lifted the stay the following day and Stockton was executed.

Robert Charles Cruz, originally sentenced to death in Arizona in 1981, was acquitted of murder at his fifth trial in June. Cruz's 1981 conviction was overturned by the Arizona Supreme Court in 1983 and he was tried twice in 1987. However, the juries were unable to agree on a verdict and a mistrial resulted both times. Cruz was convicted again in 1988 and again sentenced to death. That conviction was also overturned by the Arizona Supreme Court in 1993 on the grounds that Cruz, a Hispanic, was denied a fair trial when prosecutors removed three Hispanics from the pool of prospective jurors.

Rolando Cruz, (no relation to the above) originally sentenced to death in Illinois in 1983, was acquitted of the murder of a 10-year-old girl at his third trial in November. The judge directed the jury to return a verdict of not-guilty after a police officer admitted he had previously lied. Cruz's co-defendant, Alejandro Hernandez, was also freed in December after prosecutors dropped the charges against him rather than allow the case to go to trial for the fourth time.

In its ruling on the case of **Lloyd Schlup**² in January, the United States Supreme Court lowered the standards requested for claims of innocence to be successfully brought by prisoners facing execution. The court ruled that an inmate will now be required to show that a constitutional violation has probably resulted in the conviction of one who is actually innocent. The court stressed that the ruling was for the "extremely rare" case in which a prisoner comes forward with "substantial" evidence of "actual innocence".

The possibility of executing an innocent person has caused politicians worldwide to abandon their support for the death penalty. For example, in the United Kingdom (UK) Michael Howard,

²For further information see: *USA Death Penalty Developments 1994*, AI index: AMR 51/01/95

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the Secretary of State for Home Affairs (the government minister responsible for law and order) who previously voted for the reintroduction of the death penalty (believing it to be a deterrent to violent crime), voted against in 1994. Citing several miscarriages of justice in the UK as the reason for changing his mind, the minister stated:

"Miscarriages of justice are a blot on a civilized society. For someone to spend years in prison for a crime he or she did not commit is both a terrible thing and one for which release from prison and financial recompense cannot make amends. But even that injustice cannot be compared with the icy comfort of a posthumous pardon. When we consider the plight of those who have been wrongly convicted, we cannot but be relieved that the death penalty was not available. We should not fail to consider the irreparable damage that would have been inflicted on the criminal justice system had innocent people been executed."³

Ineffective legal representation

Calvin Burdine came within 13 hours of execution in Texas on 11 April. He was sentenced to death in 1983 for the murder of his male lover.

During his trial, Burdine was represented by Joe Frank Cannon. The quality of Cannon's representation of capital defendants has been widely criticized. In September 1994, *The Wall Street Journal* published an article discussing many allegations of Cannon's ineffectiveness as a legal representative. These included a total lack of preparation for trial and an admitted willingness to try cases "as fast as greased lightning". At Burdine's trial, Cannon repeatedly fell asleep. The foreman of the jury at Burdine's trial, Daniel Strickland, stated in an affidavit that: "During the guilt-innocence phase of Mr Burdine's trial, I observed that Mr Joe Cannon appeared to doze off into a state of sleep on at least a few different occasions, perhaps as many as five different times."

According to Cannon's own admission, he did not interview a single prospective witness in his preparation for Burdine's defence. Burdine's execution was originally set for 17 January 1995. However, this was stayed by a state district judge, who ordered an evidentiary hearing on whether Cannon slept during the trial.

The Texas Court of Criminal Appeals then ruled that Cannon's failure to stay awake during the trial had not affected the outcome of the case. But the Federal court stayed the execution ruling that another hearing was necessary to establish whether Burdine's trial had been prejudiced.

At least one other death row inmate, Carl Johnson (executed in Texas on 19 September 1995), had accused Joe Cannon of falling asleep while representing him during his trial. Another Texas death row inmate, George McFarland, claims his 72-year-old lawyer slept during the trial. Judge Doug Shaver, who presided over McFarland's trial, responded: "The Constitution says everyone's entitled to the attorney of their choice. The Constitution doesn't say the lawyer has to

³Parliamentary Debates (Hansard), House of Commons, Official Report, 21 February 1994, column 45.

be awake."

Allegations have also been made that Cannon's attitude to homosexuals made him unfit to represent Burdine, who is openly homosexual. During a 1988 court hearing and in an affidavit on file with the trial court, Cannon referred to homosexuals as "queers" and "fairies". Cannon failed to object to a statement made by the prosecutor during the sentencing phase of the trial that: "Sending a homosexual to the penitentiary certainly isn't a very bad punishment for a homosexual". Cannon is also alleged to have accepted three persons onto the jury who admitted that they were prejudiced against homosexuals. One of the three stated: "I really can't say that [my view of homosexuals] would not bias me against homosexuals". These jurors could have been removed via "peremptory" strikes (the right to exclude jurors without giving reason).

Prosecutors did not seek the death penalty for Burdine's co-defendant, Douglas McCriecht, who reportedly helped stab and strangle the victim. Douglas McCriecht has since been released from prison on parole.

Burdine had previously survived another execution date of 4 August 1987. This execution was stayed by Houston District Judge Jay Burnett in July 1987. Immediately after entering the stay, Judge Burnett faxed and mailed a certified copy of the stay-order to death row officials. He also phoned prison officials to inform them of the stay.

However, in the early morning of 3 August 1987, death row guards came to Burdine's cell and instructed him to prepare for execution. Burdine attempted to stop preparations by showing prison officials a certified copy of the judge's stay. However, he was forced to go through the preparations for his execution: this included being required to write his will, take a "final" shower and order his "last" meal. Guards would not allow Burdine to telephone his attorney during this process.

During the evening of 3 August - a few hours before Burdine's scheduled execution - prison officials "found" the judge's stay of execution and Burdine was returned to his regular death row cell.

In July the Death Penalty Information Centre, a non-governmental research organisation, published a report on the low standards of legal representation afforded many death row inmates at the trial stage.

The report, entitled *With Justice for the Few: The Growing Crisis in Death Penalty Representation*⁴, concluded that "...there is overwhelming evidence that many of these 3,000 people [on death row] are there not because they have committed the worst crimes, but rather because they were given the worst lawyers..."

⁴Published by the Death Penalty Information Center, 1606 20th St. NW, Washington, DC 20009, USA

Federal funding for death row law centres removed

The Post-Conviction Defender Organisations (PCDO), more commonly known as Capital Resource Centres, were established by Congress in 1988 to ensure adequate legal representation for death row inmates during the federal and state habeas corpus appeal process. This followed the enactment of a law obliging federal courts to provide lawyers for defendants sentenced to death.

In the summer of 1995, the US Congress voted to eliminate the \$20 million funding for the PCDOs, therefore leaving the majority of the centers without sufficient funding and forcing their closure. One of the main sponsors of the bill to remove the funding, Representative Bob Inglis, claimed the centres were going beyond their legal duties and opposing the death penalty. Representative Inglis was quoted in the *New York Times* as stating: "We should not be spending federal dollars to subsidise think tanks run by people whose sole purpose is to concoct legal theories to frustrate the implementation of the death penalty." He went on to claim that the elimination of the centres would save the federal government \$20 million.

The savings are disputed by many in the legal profession as lawyers will still have to be provided for death row inmates in most instances. Federal Judge Richard Arnold estimated the cost of a lawyer in private practice to be between \$75 and \$100 per hour. This compared to the average of \$55 per hour paid to lawyers from PCDOs. He described the PCDOs as "the cheapest and best way to deliver service." Others in the legal profession have expressed concern that the demise of the centers will lead to death row inmates being represented by attorneys unfamiliar with the highly complicated legal appeals involved with capital punishment.

The passage of the bill was delayed due to Congress and President Clinton being unable to agree on a federal budget. Therefore some funding to the centers may continue until 1 April 1996. By the end of 1995 many of the centers had closed and those that had remained open were operating with a greatly reduced number of staff.

In an editorial entitled "Shortchanging Inmates on Death Row", *The New York Times*⁵ stated: "...the legislation [to remove the funding] will increase the chance that innocent defendants, or defendants whose trials were constitutionally flawed, will be executed...The defenders' program deserves to live. A Congress committed to the death penalty cannot in good conscience deny competent legal counsel."

US Congress to limit legal appeals for death row inmates

⁵Published 13 October 1995

Amnesty International February 1996AI Index: AMR 51/01/96

It now appears likely that Congress will make significant changes in the habeas corpus federal review of capital cases. A habeas corpus appeal allows a prisoner to challenge their original conviction under the US constitution.

Both the House of Representatives and the Senate have passed versions of habeas "reform" that would limit the scope of federal review as well as for the first time impose statutes of limitations on the filing of habeas appeals. These habeas proposals were appended to various bills ranging from the anti-terrorism legislation to regulations relating to the US government's federal budget. However, thus far the proposals have failed to become law as the measures were lost during the committee stage, or defeated when voted upon. Because Congressional support for habeas "reform" remains strong, it is expected that some form of legislation significantly altering habeas corpus will be enacted during 1996.

For the first time Congress appears ready to impose limitations on the filing of habeas corpus petitions. The legislation seeks to impose a one year deadline on the filing of habeas applications. The one-year limit starts when the inmate's conviction becomes "final" (finality is defined as the conclusion of "direct" appeal to the state courts). The prisoner would then have one-year to file a post-conviction appeal. Once the appeal is filed, the time limit would cease until the appeal has been heard. If the appeal was denied the "clock" would start again. All the time during which an inmate had not filed an appeal would count against the one-year deadline.

Former governor of Mississippi's state prison speaks out against the death penalty

Don Cabana, the former governor of Mississippi's state prison where death row inmates are held, has become an opponent of the death penalty. In various press interviews Don Cabana described his experiences of being involved in six executions, including two as the executioner. Cabana was quoted as stating that: "I was just an instrument of the legal system...God wanted me to do it...he wanted a humane killer...I was humane. I was compassionate." He went on to describe how he now uses his experiences to campaign against the death penalty, particularly the horror of execution by lethal gas: "The audience of twenty [witnesses] was kept seated on plastic folding chairs and could only see the back view [of the prisoner] so that they couldn't see the contortions, the rolling of eyes, gritted teeth, saliva, seizures, clenched fists. The doctors and prison staff were given the full frontal. I would find my eyes glued to the inmate's face 'I know him' I would think. 'That man was in my care.' Just minutes before he was a living being. Now he was someone I was killing...If I live to be 80, I will recall every wrinkle, every crease of the face - the style of the haircut, every reaction in the chamber."

Cabana went on to describe the legal system as "imperfect" and how he is haunted by the suspicion that one of the men he executed, Edward Earl Johnson (executed 20 May 1987), was innocent⁶. Cabana believes that prison staff should not be expected to take part in executions, but that the job should be given to the foreman of the jury or the prosecuting attorney.

⁶For further information see AI publication *USA: The Risk of Executing the Innocent*, AI index AMR 51/19/89

AI Index: AMR 51/01/96 Amnesty International February 1996

Thirty-eighth state reintroduces the death penalty

On 7 March 1995, Governor George Pataki signed a bill reinstating the death penalty in New York. The bill had previously been passed by both houses of the New York State legislature, the Senate and the Assembly, by votes of 38 to 19 and 94 to 52 respectively. New York is the thirty-eighth state in the USA to have reintroduced legislation allowing for the use of capital punishment. The bill became law on 1 September 1995.

Governor Pataki made his support for the reintroduction of the death penalty a central issue during the 1994 elections for the governorship and the death penalty bill was the first major piece of legislation he signed into law. There had been eighteen previous attempts by the Senate and Assembly to reintroduce the death penalty since 1977: all previous bills had been vetoed by former Governors Casey and Cuomo.

The law allows for death sentences to be passed for approximately twelve offences. These include: intentional murder committed during the course of a rape, robbery or kidnapping; contract killings; the murder of prison warders, police officers or other law enforcement officials; and murder involving torture. The method of execution will be lethal injection: the previous method was electrocution. The last prisoner to be executed in New York was Eddie Lee Mays in 1963.

The law excludes those under 18-years-of-age at the time of the offence, pregnant women and the mentally retarded from execution; the determination of mental retardation will be by the trial-court.

Under the new law, capital trials will take place over two phases. The first phase determines the guilt or innocence of the defendant. Upon conviction of first degree murder, the court will hold a second hearing known as the "penalty phase". The penalty phase determines whether a sentence of death, or life imprisonment without the possibility of parole is to be imposed. The decision on sentencing rests with the original trial-jury. The jury will be required to determine whether the mitigating facts relating to the defendant outweigh the aggravating factors involved in the crime.

A unanimous decision by the jury is required for either of the sentences available. In the event of the jury being unable to reach a unanimous decision, the defendant will be sentenced to life imprisonment for a minimum term of 20-years.

An act was also passed to provide \$11 million, "or so much thereof as may be necessary", to cover the increased prosecution and defence costs involved in administering death penalty laws.

Governor Pataki cited prevention of violent crime as his major justification for reintroducing capital punishment. At the bill-signing ceremony Governor Pataki used two pens which had previously belonged to murdered police officers and was surrounded by the relatives of homicide victims. Governor Pataki was quoted as stating "Justice will now be served...It is a

solemn moment because this is something aimed at preventing tragedy, and we've seen too many tragedies in the past."

In 1993, the last year for which figures are available, there were a total of 2,285 murders in New York. It is estimated that between 15 and 20 per cent could be defined as capital murder under the new death penalty law. However, given the experiences of other states, New York is unlikely to have such a high number of capital trials. Several district attorneys have expressed reservations about seeking death sentences, with at least one stating he would not be prepared to seek a death sentence "under any circumstances".

In reaction to the signing of the death penalty bill, former Governor Mario Cuomo stated: "This is a step back in what should be a march constantly toward a higher level of civility and intelligence. The argument that the death penalty will deter and reduce crimes has been abandoned almost everywhere."

No death sentences had been imposed by the end of the year in New York, although two people had been charged with capital murder and their trials were pending.

Massachusetts, Iowa and Wisconsin reject the return of the death penalty

In March the governor of Massachusetts, William Weld, re-filed legislation to reinstate the death penalty for the fifth year in a row. In a statement to the Legislature, Governor Weld wrote: "That moral consensus - which has been thwarted in Massachusetts - is that those who show complete contempt for human life by committing the most cold-blooded murders justly forfeit their right to live." Governor Weld also made reference to the reintroduction of the death penalty in New York stating that: "New York has changed, and so can Massachusetts".

The bill was defeated in June by a vote of 83 to 73, six votes closer than the previous year. After the vote, the Governor's office announced their intention to seek another hearing to reintroduce the death penalty in the future.

Governor Terry Branstad also introduced a bill to reinstate the death penalty in Iowa. Despite having been passed by the House of Representatives, the bill failed to become law when the Senate defeated the measure by a vote of 39 to 11.

In Wisconsin a bill had been proposed allowing for the death penalty to be inflicted on those found guilty of murdering anyone under the age of sixteen. Due to the lack of support for the initiative the vote on the bill was postponed. In 1993 the Wisconsin Senate voted against a similar proposal by 21 votes to 12.

First executions in Montana for over fifty years and in Pennsylvania for over thirty years

Duncan McKenzie was executed in Montana on 10 May. He was the first prisoner to be executed in the state since 1943. McKenzie was one of the longest serving death row inmates in the United States, having been convicted in 1974. McKenzie's execution had been scheduled eight times in the past but had been stayed by the appeal courts on each occasion.

In a letter denying clemency, Montana's Governor Racicot stated: "There is no deprivation of human dignity when a criminal is rightfully convicted and punished. It is a demonstration that we haven't lost confidence in our understanding of right or wrong..."

Keith Zettlemyer was executed in Pennsylvania on 2 May. He was the first prisoner to be executed in Pennsylvania since 1962. (See 'Prisoners who abandoned appeals and sought execution' for further details).

In July, news articles appeared in the Pennsylvanian press reporting that the Department of Corrections were seeking six "reputable adult citizens" to witness executions. Individuals were invited to write to the State Correctional Institution stating why they wanted to witness an execution and to stipulate whether they were interested in witnessing a specific execution.

Cruelty of executions

Emmitt Foster was executed by lethal injection in Missouri on 3 May. According to press reports, one of the straps binding Foster to the gurney was too tight and stopped the flow of lethal drugs into his right arm. Prison workers closed the blinds to the windows of the execution chamber at 12.10am (10 minutes after the execution begun) and did not open them until 12.36am, three minutes after Foster was pronounced dead. The strap was loosened at 12.27am.

The official witnesses to the execution were unable to see into the chamber after the blinds had been drawn. One witness refused to sign the routine statement that she had witnessed the execution. Other witnesses reported that Foster was "gasping, slightly convulsing" and had "some abdominal convulsing" prior to the blinds being drawn. The coroner at the execution, William Gum, called the incident "a little error. It's not like the guy suffered."

The remaining 36 death row inmates in Missouri filed a federal law suit alleging that the prolonged execution of Emmitt Foster demonstrated that Missouri's method of execution was "cruel and unusual punishment" in violation of the state's constitution. The suit led to a stay of execution for Larry Griffin. However the prosecution successfully appealed against the stay to a higher court and Griffin was executed. Lawyers representing the inmates then withdrew the suit when it became clear it would not be successful.

Nicholas Ingram, executed in Georgia on 7 April, was one of the many death row inmates to

suffer the strain of last-minute stays of execution. Ingram received a stay of execution 65 minutes before his execution was originally scheduled on 6 April. However, according to a sworn affidavit, preparations for the execution continued for over 30 minutes after the stay had been issued. Ingram described the preparations in the affidavit:

“At around 5.30pm last night I was taken from my cell in the hospital section to H-5, the cell by the chair. I had to walk by the chair which was covered by a sheet. I was sweating it, because walking by really brought it home.

Apparently, at 5.55pm my case was stayed but nobody told me. Indeed, at 6.20pm - the time I know because the guards told me - they began to seriously prepare for me for execution. It was devoid of humanity, a bunch of sick people who apparently volunteered for the job, acting like I was a lamb for the slaughter.

They shaved my head with electric shears...They treated me like an animal, and said it was just a job. They had me put on some pants with a cut up leg for where they would attach the electrodes.

They asked me what I wanted for a last meal. I said I did not want food, but I did want some cigarettes. They said the new policies forbid smoking. The chaplains were there most of the time - even before, when they put a finger up my anus in the strip naked ‘physical’ exam...They have told me it all starts again at 4pm today with the ‘physical’ once more, and I am to die tonight.”

The stay was granted for three days. However, the prosecution successfully appealed against the stay and Ingram’s execution went ahead the following evening.

Jerry White was executed by electrocution in Florida on 4 December. According to several witnesses to the execution, White “screamed” or gave out a “plainly audible agonised groan” as the electric current was applied. Two of the witnesses, who had been at 12 previous executions in Florida, stated that they had never heard such a noise come from the person being executed before.

The execution of Jerry White took place while his friend and fellow death row inmate **Phillip Atkins** waited for his own execution (scheduled for the next day) in the “death house” a few feet away from the execution chamber. Atkins, who reportedly has the mental age of a 15-year-old, told his attorney “I heard it all...it was so scary”. He was executed on 5 December as scheduled.

Texas to allow victims’ families to witness execution

Following lobbying from the relatives of murder victims, the Texas Board of Criminal Justice has altered the rules governing executions. The new rules, introduced in December, will allow up to five members of the family of the condemned persons’ victim to witness the execution.

A similar move is currently proposed in Oklahoma. The victims’ relatives are currently allowed to witness
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executions in California, Louisiana, North Carolina, Washington State and Virginia.

Poll shows little support for the death penalty amongst police chiefs

In February the Death Penalty Information Center issued the findings of a study of police chiefs' views on the death penalty.

The report, entitled *On the Front Line: Law Enforcement Views on the Death Penalty*⁷, conducted telephone interviews with 386 randomly designated police chiefs in 48 states across the USA. The poll's findings show that, while many police chiefs support the death penalty philosophically, a strong majority do not believe that it is an effective law enforcement tool in practice.

Police chiefs rated the death penalty as the least cost-effective method of controlling crime, and ranked it last as a way of reducing violent crime. Insufficient use of the death penalty was not considered a major problem by the majority of police chiefs. A majority also believe that murderers do not think about the possible punishments for their crime, that the death penalty does not significantly reduce the number of homicides, and that it is not one of the most important tools in fighting crime.

Participation of health professions in the execution process

Legislation redefining the role of doctors in the process of executions has been signed into law in Illinois. The bill appears to have been introduced in response to the widespread professional opposition to medical practitioners' involvement in executions in Illinois. The effect (or at least the intent) of the bill is to remove doctors assisting in executions from the terms of the Medical Practice Act and allow them to take part without being in violation of the State's medical ethics.

On 22 March, Illinois State Governor Jim Edgar signed into law bill HB204. This bill amends the Medical Practice Act to state that the "assistance, participation in, or the performance of ancillary or other functions pursuant to this Section, including but not limited to the administration of the lethal substance or substances required by the Section, **shall not be construed to constitute the practice of medicine**". The Medical Practice Act provides a number of avenues for the discipline of doctors who commit "dishonourable, unethical or unprofessional conduct".

The World Medical Association wrote to the authorities in Illinois urging a reversal of the new law that permits doctors to take part in executions involving the injection of lethal substances. The Association stated that: "Regardless of the decision of a state to impose capital punishment ... no physician should be encouraged to act as executioner ... and for any physician to act in

⁷Published by the Death Penalty Information Center, 1606 20th St. NW, Washington, DC 20009, USA

this way is a breach of the Hippocratic Oath".

Robert Brecheen was executed by lethal injection in Oklahoma on 11 August, only hours after receiving emergency medical treatment for an apparent drug overdose at a nearby hospital. According to a statement by the Oklahoma Department of Corrections, Brecheen was found unconscious in his cell at around 9pm local time on the night of 10 August, some three hours before his scheduled execution. He was immediately taken to McAlester Regional Hospital where, according to his attorney, physicians gave him powerful drugs to make him regain consciousness. Reports also indicate that he had his stomach pumped.

Brecheen was then returned to Oklahoma State Penitentiary, where he made a brief statement before being put to death by lethal injection at 1.55am.

Oklahoma state law requires that the condemned prisoner be aware of their execution and of the reasons for it. Amnesty International received conflicting accounts of the mental state of Brecheen immediately prior to his execution. While a prison official reported that Brecheen "didn't stutter" and that his "speech wasn't slurred", one of Brecheen's lawyers reported that an investigator sent to the prison to ascertain Brecheen's mental state said that he was "still disorientated" immediately prior to the execution.

Prisoners who abandoned their appeals and sought execution

Seven prisoners executed during 1995 refused to appeal against their death sentences and successfully sought their execution.

Thomas Grasso was executed in Oklahoma on 20 March. Grasso was originally serving a twenty-year-to-life prison sentence in New York. After his arrest in New York he confessed to a murder in Oklahoma and was extradited back to the state, tried and sentenced to death. In 1993 Grasso was on the verge of being executed in Oklahoma when the New York authorities obtained a federal court order for his return to the state to serve his prison sentence.

The issue of whether to return Grasso to Oklahoma to face execution was debated between the candidates in the 1994 election campaign for the state governorship of New York. The elections were won by the pro-death penalty George Pataki (see 'Thirty-eighth state introduces the death penalty' page 13). One of the first acts of the new governor was to return Grasso to Oklahoma. Grasso refused to appeal against his extradition or execution stating that he preferred death to life imprisonment.

Keith Zettlemoyer was executed in Pennsylvania on 2 May after refusing to continue with his legal appeals. Attorneys from the Pennsylvania Capital Resource Centre appealed on the grounds that Zettlemoyer was not mentally competent to decide his own fate. At the hearing Zettlemoyer stated that: "I'm not crazy. I'm not loony. I understand perfectly what's going on with the execution and everything." Zettlemoyer also stated that: "I see my execution as an end of the suffering of my imprisonment -- a blessed, merciful release from all these health symptoms

that I'm constantly suffering with."

Keith Zettlemyer was sentenced to death for murder in 1980 and was executed despite pleas for clemency from the victim's mother.

Leon Moser was executed in Pennsylvania on 16 August. His death brought to an end a series of bizarre legal manoeuvrings. At 2.40pm on the day of Moser's execution Judge Thomas O'Neill Jr. ordered that he be brought to court for a hearing on his competency to abandon his appeals. At 4.30pm the Judge was informed by prison officials that they would not be able to produce Moser in court until 10.30pm that evening. The Judge told the prison officials that the hearing would now take place the following morning and issued a 24-hour stay of execution. The prosecution appealed to the US Supreme Court for a lifting of the stay but this was denied by a vote of eight to one. However, at 11.09 the US Supreme Court issued an order lifting the stay of execution and the prison started the final preparations for Moser's execution.

The Governor of Pennsylvania, Tom Ridge, instructed the prison to proceed with the execution at 11.15pm. At around the same time attorneys representing Moser informed Judge O'Neill's office of the developments. A clerk from Judge O'Neill's office telephoned the prison at 11.30pm to inquire of Moser's status as he said the judge might want to speak to him to assess his mental competency. The clerk was told that Moser had been strapped to a gurney in the execution chamber. The clerk also asked if Moser had a cellular telephone with him and was told that no inmate in the state prison system has such a phone. The clerk was not informed that Moser was lying a few feet away from an open telephone line that runs from the death chamber to the warden's office. At 11.36pm a mixture of lethal drugs started to flow into the arm of Moser. The clerk to Judge O'Neill again called the prison at 11.45pm and asked "Is Mr Moser alive or is he dead? - because if he is alive the judge may want to talk to him." The clerk was informed that the drugs were being administered to Moser and that he was probably dead at that time. Leon Moser was declared dead at 11.47pm.

The state of Pennsylvania spent \$39,390 on the executions of Zettlemyer and Moser. One of the main expenses involved the payment of overtime to prison officials.

The other prisoners who dropped their appeals and were executed in 1995 were: **Nelson Shelton**, executed in Delaware on 17 March; **Phillip Ingle**, executed in South Carolina on 22 September; **Mickey Wayne Davidson**, executed in Virginia on October 19; and **Esequel Banda**, executed in Texas on 11 December.

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Prisoners executed during 1995

Execution totals ⁸	Date	Name	State	Method	Race	Victim
1/258/86	04 Jan	Jesse JACOBS	Texas	LI	W	W
2/259/87	17 Jan	Mario MARQUEZ	Texas	LI	L	L
3/260/07	24 Jan	Kermit SMITH	North Carolina	LI	W	B
4/261/25	24 Jan	Dana Ray EDMONDS	Virginia	LI	B	W
5/262/88	31 Jan	Clifton Charles RUSSELL	Texas	LI	W	W
6/263/89	31 Jan	Willie WILLIAMS	Texas	LI	B	W
7/264/90	07 Feb	Jeffrey MOTLEY	Texas	LI	W	L
8/265/91	16 Feb	Billy GARDNER	Texas	LI	W	W
9/266/92	21 Feb	Samuel HAWKINS	Texas	LI	B	W
10/267/04	17 Mar	Nelson SHELTON	Delaware	LI	W	W
11/268/04	20 Mar	Thomas GRASSO	Oklahoma	LI	W	B
12/269/03	22 Mar	James FREE	Illinois	LI	W	W
13/270/04	22 Mar	Hernando WILLIAMS	Illinois	LI	B	W
14/271/93	05 Apr	Noble MAYS	Texas	LI	W	W
15/272/19	07Apr	Nicholas INGRAM	Georgia	E	W	W
16/173/10	19 Apr	Richard Wayne SNELL	Arkansas	LI	W	W/B
17/274/11	28 Apr	Willie CLISBY	Alabama	E	B	B
18/275/01	02 May	Keith ZETTLEMOYER	Pennsylvania	LI	W	W
19/276/12	03 May	Emmitt FOSTER	Missouri	LI	B	B
20/277/01	10 May	Duncan MCKENZIE	Montana	LI	W	W
21/278/12	12 May	Varnall WEEKS	Alabama	E	B	W
22/279/22	16 May	Thomas Lee WARD	Louisiana	LI	B	B
23/280/05	17 May	Girvies DAVIS	Illinois	LI	B	W
24/281/20	17 May	Darrell DEVIER	Georgia	E	W	W
25/282/26	25 May	Willie Lloyd TURNER	Virginia	LI	B	W
26/282/94	01 June	Fletcher Thomas MANN	Texas	LI	W	W
27/284/95	08 June	Ronald ALLRIDGE	Texas	LI	B	W
28/285/96	20 June	John FEARANCE	Texas	LI	B	W
29/286/97	21 June	Karl HAMMOND	Texas	LI	B	W
30/287/13	21 June	Larry GRIFFIN	Missouri	LI	B	B
31/288/05	01 July	Roger Dale STAFFORD	Oklahoma	LI	W	4W1B1L

⁸Total for year; total executions since 1977; total executions for that state since 1977.
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32/289/34	18 July	Bernard BOLENDER	Florida	E	W	3L1W
33/290/14	27 July	Tony MURRAY	Missouri	LI	B	2B
34/291/06	11 Aug	Robert BRECHEEN	Oklahoma	LI	B	W
35/292/98	15 Aug	Vernon SATTIEWHITE	Texas	LI	B	W
36/293/02	16 Aug	Leon MOSER	Pennsylvania	LI	W	3W
37/294/05	18 Aug	Sylvester ADAMS	South Carolina	LI	B	B
38/295/11	31 Aug	Barry FAIRCHILD	Arkansas	LI	B	W
39/296/04	13 Sept	Jimmy JEFFERS	Arizona	LI	W	W
40/297/99	19 Sept	Carl JOHNSON	Texas	LI	B	B
41/298/06	20 Sept	Charles ALBANESE	Illinois	LI	W	W
42/299/08	22 Sept	Phillip Lee INGLE	North Carolina	LI	W	4W
43/300/27	27 Sept	Dennis STOCKTON	Virginia	LI	W	W
44/301/100	4 Oct	Harold Joe LANE	Texas	LI	W	W
45/302/28	19 Oct	Mickey DAVIDSON	Virginia	LI	W	3W
46/304/29	14 Nov	Herman BARNES	Virginia	LI	B	W
47/304/15	15 Nov	Robert SIDEBOTTOM	Missouri	LI	W	W
48/305/07	22 Nov	George DELVECHIO	Illinois	LI	W	W
49/306/16	29 Nov	Anthony Joe LARETTE	Missouri	LI	W	W
50/307/35	4 Dec	Jerry WHITE	Florida	E	W	L
51/308/36	5 Dec	Phillip ATKINS	Florida	E	B	W
52/309/17	6 Dec	Robert O'NEAL	Missouri	LI	W	B
53/310/101	6 Dec	Bernard AMOS	Texas	LI	B	W
54/311/102	7 Dec	Hai Hai VUONG	Texas	LI	A	2A
55/312/103	11 Dec	Esequel BANDA	Texas	LI	L	W
56/313/104	12 Dec	James BRIDDLE	Texas	LI	W	W

Abbreviations:

Execution method: E = electrocution; LI = lethal injection

Race: A = Asian; B = Black; L = Latino; W = White

Sex: F = Female; M = Male

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Statistics⁹

Total executions since 1976 reintroduction of the death penalty

1976	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95
0	1	0	2	0	1	2	5	21	18	18	25	11	16	23	14	31	38	31	56

RACE OF DEFENDANTS EXECUTED TOTAL NUMBER: 313

White 172 (54.92%)

Black 122 (39.05%)

Latino 17 (5.40%)

Native American 1 (.32%)

Asian 1 (.32%)

RACE OF VICTIMS TOTAL: 420

White 346 (82.39%)

Black 53 (12.61%)

Latino 14 (3.34%)

Asian 7 (1.66%)

EXECUTION BY STATE TOTAL NUMBER: 26

1. Texas 104 (33.01%)

2. Florida 36 (11.43%)

3. Virginia 29 (9%)

4. Louisiana 22 (6.98%)

5. Georgia 20 (6.35%)

6. Missouri 17 (5.40%)

7. Alabama 12 (3.81%)

8. Arkansas 11 (3.49%)

9. North Carolina 8 (2.54%)

10. Illinois 7 (2.22%)

11. Oklahoma 6 (1.90%)

12. Delaware 5 (1.59%)

13. Nevada 5 (1.59%)

14. South Carolina 5 (1.59%)

15. Utah 4 (1.27%)

16. Mississippi 4 (1.27%)

17. Arizona 4 (1.27%)

18. Indiana 3 (0.95%)

19. California 2 (0.63%)

20. Washington 2 (0.63%)

21. Pennsylvania 2 (0.63%)

22. Idaho 1 (0.32%)

23. Maryland 1 (0.32%)

24. Nebraska 1 (0.32%)

25. Wyoming 1 (0.32%)

26. Montana 1 (0.32%)

⁹Source: Legal Defense and Education Fund, New York, October 1995
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EXECUTIONS BY METHODS USED TOTAL: 313

Lethal injection 182
Electrocution 119
Gas Chamber 9
Hanging 2
Firing Squad 1

Number of death row inmates at the end of 1994: 3,046 in 34 states, US Government and US Military

JURISDICTIONS WITH DEATH PENALTY STATUTES: 38 STATES AND 2 FEDERAL

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

(underlined states have death penalty statutes but no death sentences imposed)

JURISDICTIONS WITHOUT CAPITAL PUNISHMENT: 12 STATES AND 1 FEDERAL JURISDICTION

Alaska, District of Columbia (Federal), Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, Vermont, West Virginia, Wisconsin.

JUVENILE OFFENDERS EXECUTED SINCE 1977 TOTAL NUMBER: 9

Charles Rumbaugh (Texas) 11 September 1985
James Terry Roach (South Carolina) 10 January 1986
Jay Pinkerton (Texas) 15 May 1986
Dalton Prejean (Louisiana) 18 May 1990
Johnny Frank Garrett (Texas) 11 February 1992
Curtis Harris (Texas) 1 July 1993
Frederick Lashley (Missouri) 28 July 1993
Ruben Cantu (Texas) 24 August 1993
Christopher Burger (Georgia) 7 December 1993
(all were 17-years-old at the time of the offense)

JUVENILE OFFENDERS ON DEATH ROW: At least 44 in 13 states

Alabama (5); Arizona (2); Florida (3); Georgia (2); Kentucky (1); Mississippi (5); Missouri (2); Nevada (1); Oklahoma (1); Pennsylvania (2); South Carolina (2); Texas (17); Virginia (1).

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DEFENDANT-VICTIM RACIAL COMBINATIONS

White defendant and

White victim 240 (56%)
Black victim 5 (1.18%)
Asian victim 2 (0.47%)
Latino victim 5 (1.18%)

Black defendant and

White victim 100 (23%)
Black victim 47 (11%)
Asian victim 2 (.24%)
Latino victim 1 (.24%)