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[USA FACT SHEET FOR WORLD DAY 2010

[A BRIEF HISTORY OF THE DEATH PENALTY IN THE USA

In the 1930s there were more executions than in any other decade in American history, an average of 167 per year.

In the 1950s, public sentiment began to turn away from capital punishment. Many allied nations either abolished or limited the death penalty, and in the U.S., the number of executions dropped dramatically.

Moratorium - The issue of arbitrariness of the death penalty was brought before the Supreme Court in 1972 in *Furman v. Georgia*. With the *Furman* decision the Supreme Court set the standard that a punishment would be "cruel and unusual" if it was too severe for the crime, if it was arbitrary, if it offended society's sense of justice, or if it was not more effective than a less severe penalty. The decision led to a 4 year moratorium on the death penalty. The states that wanted to maintain the death penalty rewrote their death penalty statutes to eliminate the problems cited in *Furman*.

In March 2005, the Supreme Court in *Roper v. Simmons* ruled that the death penalty for those who had committed their crimes while under 18 years of age was cruel and unusual punishment and hence barred by the Constitution.

In 2009, 11 states considered legislative proposals to repeal the death penalty, a considerable increase from previous years.

[GENERAL INFORMATION ABOUT THE DEATH PENALTY

- Abolitionist states = 15 (excluding Puerto Rico with is also abolitionist)
- Retentionist states = 35
- The US Government and US Military are both retentionist.

[State/Federal Executions

Top 5 – 2009		Top 5 – Since the end of the Furman Moratorium in 1976		Top 5 – Ever	
Texas	24	Texas	452	Virginia	1,383
Alabama	6	Virginia	106	Texas	1,207
Ohio	5	Oklahoma	92	US Military	1,206
Oklahoma	3	Florida	69	New York	1,130
Virginia	3	Missouri	67	Pennsylvania	1,043
USA Total	52	USA Total	1,200	USA Total	17,255

[THE TWO MAIN CRIMES THAT CAN ATTRACT A DEATH PENALTY SENTENCE

- Murder (all 35 retentionist states + US Government and US Military)
- Felony Murder/Law of Parties (23 retentionist states and US Government)

[STATES AND METHODS OF EXECUTIONS

The method of execution may depend on a number of factors including, the date the offence was committed, the availability of methods of execution and/or the preference of the person condemned.

- Death by Lethal Injection = 35 (every retentionist state) + US Military and US Government
- Death by Electric Chair = 9 (Alabama, Arkansas, Florida, Illinois, Kentucky, Oklahoma, South Carolina, Tennessee, Virginia)
- Death by Gas Chamber = 5 (Arizona, California, Maryland, Missouri, Wyoming)
- Death by Hanging = 2 (New Hampshire and Washington)
- Death by Firing Squad = 2 (Oklahoma and Utah)

NB The US Government uses the method of execution of the state where the sentence is imposed.

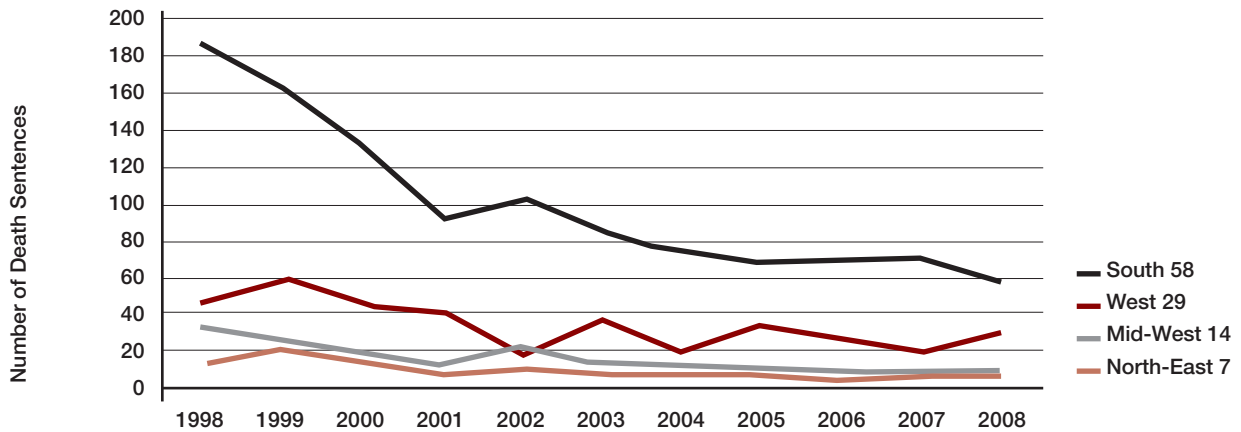
[Death Row (as of March 2009)

Top 5 – Highest Death Row Populations in USA		Top 5 Highest Female Death Row Populations in USA	
California	690	California	15
Florida	430	Texas	10
Texas	342	North Carolina	4
Pennsylvania	225	Pennsylvania	3
Alabama	200	Mississippi	3
USA Total	3,285	USA Total	53

[DEATH SENTENCES

In 2009, the number of new death sentences nationwide reached the lowest level since the death penalty was reinstated in 1976. There is a clear trend showing a steady decrease in the overall number of death sentences handed down nationwide. This decrease is particularly noticeable in the southern states.

[DP Sentencing By Region

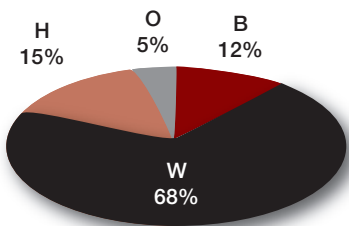


[A DISCRIMINATORY AND DYSFUNCTIONAL SYSTEM

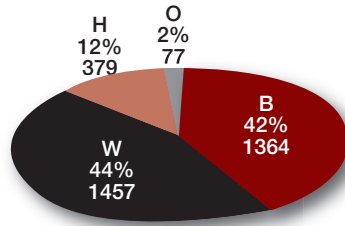
[DEATH ROW

Studies have repeatedly shown that race is a critical factor in the determination of who is sentenced to death. In the state of Pennsylvania, for example, black defendants in Philadelphia County are sentenced to death at a significantly higher rate than similarly-situated non-black defendants. And over the last three decades, social scientists have repeatedly observed that capital defendants are much more likely to be sentenced to death for homicides involving white victims.

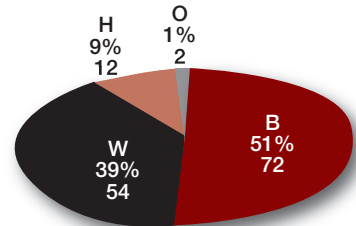
[Race Composition of USA



[Race Composition on Death Row



[Race Composition of Exonerees



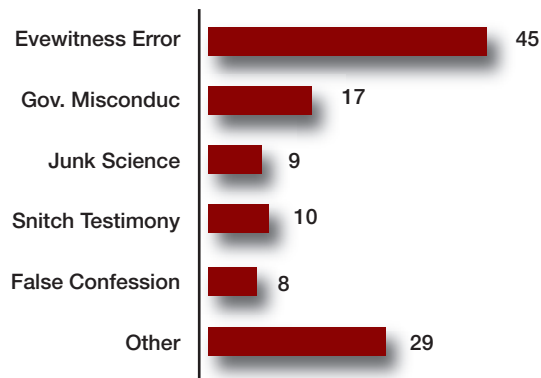
W = White B = Black H = Hispanic O = Other

[EXONERATIONS

Since the end of the Furman moratorium in 1976 there have been 139 exonerations. There were 9 exonerations in 2009 alone.

Eyewitness Error	from confusion or faulty memory
Government Misconduct	by both the police and the prosecution
Junk Science	mishandled evidence or use of unqualified "experts"
Snitch Testimony	often given in exchange for a reduction in sentence
False Confessions	resulting from mental illness or retardation, as well as from police torture
Other	hearsay, questionable circumstantial evidence, etc.

[Causes of Wrongful Convictions in 86 Death Row Cases



This figure adds up to more than 86 because some cases had more than one factor present.

[Clarence Brandley



Sentenced in – 1981

Exonerated in – 1991

Accused of – Murder of 16 year old female

Brandley was working as a high school custodian in Conroe, Texas, in 1980, when police arrested him for the murder of Cheryl Ferguson, a 16-year-old student.

While the police interviewed Brandley and one of his white co-workers, an interrogator proclaimed that, “One of you two is going to hang for this,” and told Clarence, “Since you’re the nigger, you’re elected.” In his first trial he faced an all-white jury. One juror refused to convict, causing a hung jury, and was met with a constant barrage of harassment and threats after the trial ended, ridiculed for being a “nigger-lover.” Clarence’s second all-white jury convicted him, and in 1981 he was sentenced to death. A year later it was revealed that the majority of the murder investigation’s physical evidence had mysteriously disappeared while under police control. In 1986 a new witness stepped forward claiming to know the real murderer. Yet Clarence’s defense was repeatedly denied a new trial. With an execution date set for March 27, 1987, a vocal protest movement around his case began to grow.

In October of 1987, after extensive hearings detailing prosecutorial misconduct, the judge declared, “In the thirty years that this court has presided over matters in the judicial system, no case has presented a more shocking scenario of the effects of racial prejudice...And public officials who lost sight of what is right and just.”

[Randy Steidl



Sentenced in – 1986

Exonerated in – 2004

Accused of – Murder of newlyweds

Randy had poor representation, no DNA evidence to clear him, and witnesses who fabricated testimony against him due to police misconduct.

An investigation by Illinois State police proved that local law enforcement and prosecutors had framed Randy and co-defendant Herbert Whitlock. In 2003, Federal judge Michael McCuskey overturned Randy's conviction and ordered a new trial, stating that if the proper evidence had been originally investigated and presented it was "reasonably probable" that Randy would have been acquitted by the jury. The state re-investigated the case, tested DNA evidence, and found no link to Randy.

[A COSTLY AND INEFFICIENT SYSTEM

[The Cost of the Death Penalty

The costs for death penalty in each state are different. In general however a state will have the following cost:

1 death penalty trial = \$1million more than for a non-death penalty trial

BUT

Only 1 in 3 will result in a death penalty sentence

So, the revised cost is \$3million

BUT

Only 1 in 10 will result in an execution

Therefore, the true cost for a state to reach 1 execution is \$30million

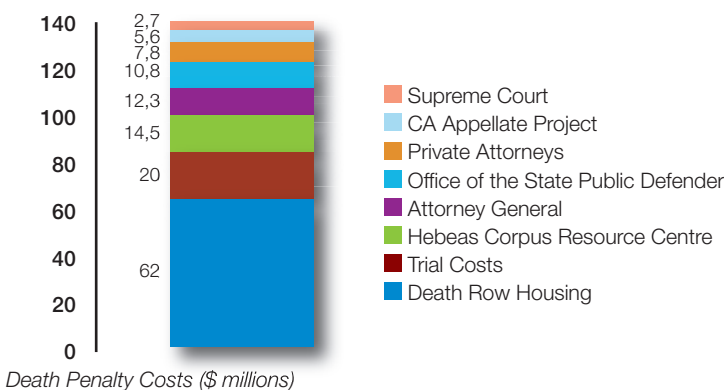
California has the most expensive death penalty system in the US.

In 2008, the California Commission on the Fair Administration of Justice released an exhaustive report on the state's capital punishment system, concluding that it was "dysfunctional" and "broken." The report found that the state was spending \$137 million per year on the death penalty. The Commission estimated a comparable system that sentenced the same inmates to a maximum punishment of life without parole would cost only \$11.5 million per year. Since the number of executions in California has averaged less than one every two years since the death penalty was reinstated in 1977, the cost for each execution is over \$250 million. The state has also indicated it needs another \$400 million to construct a new death row.

'...we continue to waste hundreds of millions on the state's dysfunctional death penalty. If we replaced the death penalty with a sentence of permanent imprisonment, the state would save more than \$125 million each year. We haven't had an execution in California for three years. Are we any less safe as a result? I don't think so'.

- Police Chief Ray Samuels, Newark, CA

[DP Costs Each Year For California



[IS THE DEATH PENALTY AN EFFECTIVE DETERRENT

The vast majority of the world's top criminologists believe that empirical research has revealed that the deterrence hypothesis is a myth. The consensus among criminologists is that the death penalty does not add any significant deterrent effect above that of long-term imprisonment. A recent survey of the country's top criminologists showed:

- that 88% do not believe the death penalty acts as a deterrent to homicide.
- that 87% believe abolition of the death penalty would have no significant effect on murder rates.

In 2007 New Jersey became the first state in 40 years to legislatively abolish the death penalty. The year before its abolition (2006) the murder rate* was 4.9 and the year after its abolition (2008) the murder rate was 4.3. In the retentionist state of Louisiana the murder rate in 2008 was 11.9.

[Regional Murder Rates* in 2002, 2004, 2006 and 2008

REGION	2008	2006	2004	2002	EXECUTIONS SINCE 1976 (As of 9/24/09)
South	6.6	6.8	6.6	6.8	970
Northeast	4.2	4.5	4.2	4.1	4

*The murder rate is calculated per 100,000 people.

[HUMAN RIGHTS VIOLATIONS

[DEATH ROW CONDITIONS

Death row conditions are considerably more unsympathetic than non-death row prison conditions. Among death rows in the US, the Texas death row is perhaps the harshest.

Texas' death row prisoners are segregated from other prisoners in every aspect of their lives.

- They eat alone, exercise alone and worship alone.
- Communication between prisoners on death row – accomplished by yelling between cells – is extremely difficult.
- Prisoners are allowed no physical contact with family members, friends or even their attorneys. Generally, a death row prisoner will not have physical contact with anyone other than prison staff from the time of his entry onto death row until the time of his execution.
- Even in the days and hours before his execution, the prisoner is not permitted to touch any family member or loved one.
- The best-behaved death row prisoners spend twenty-two hours per day in their cells.
- They are given access to small indoor or outdoor “cages” for two hours per day.

Mental health experts have repeatedly observed that prolonged confinement without sensory stimulation or human contact exacerbates pre-existing psychological disorders and can precipitate mental illness in otherwise healthy individuals.

[Mentally Ill

At least 100 severely mentally ill men and women have been executed in the United States since 1977 according to Amnesty International's 2006 report “Execution of Mentally Ill Offenders”.

[International Law

The execution of those with mental illness or “the insane” is clearly prohibited by international law. Virtually every country in the world prohibits the execution of people with mental illness.

[Domestic Law

- The execution of the insane – someone who does not understand the reason for, or the reality of, his or her punishment - violates the U.S. Constitution (Ford v. Wainwright, 1986).
- The Ford decision left the determination of sanity up to each state. Constitutional protections for those with other forms of mental illness are minimal, however, and numerous prisoners have been executed despite suffering from serious mental illness.

On January 25, 2005 Troy Kunkle was executed in Texas although he suffered from schizophrenia and had a family history of mental illness.

[THE WORST OF THE WORST?

Of the 35 current retentionist states, 23 have felony murder (also known as the law of parties) punishable by the death penalty. The US government can also seek the death penalty for felony murder.

The felony murder doctrine allows for the imposition of the death penalty on a defendant who is a “major participant” in a felony, such as burglary or robbery, even if he never killed, intended to kill, or even contemplated that someone would be killed during the commission of the crime. Twenty-three states in the U.S. (or three-fifths of those with the death penalty) allow capital punishment in cases of felony murder where the offender had no intention to kill.

[THERE IS NO HUMANE WAY TO KILL

On September 15, 2009, Ohio’s Romell Broom was scheduled for lethal injection. Efforts to find a suitable vein and to execute Mr. Broom were terminated after more than two hours when the executioners were unable to find a useable vein in Mr. Broom’s arms or legs. During the failed efforts, Mr. Broom winced and grimaced with pain. “At one point, he covered his face with both hands and appeared to be sobbing, his stomach heaving.” Finally, Ohio Governor Ted Strickland ordered the execution to stop, and announced plans to attempt the execution anew after a one-week delay so that physicians could be consulted for advice on how the man could be killed more efficiently. The executioners blamed the problems on Mr. Broom’s history of intravenous drug use. Romell Broom and his lawyers are currently seeking a permanent stay of execution on the basis that the first botched execution breached Broom’s constitutional right to avoid cruel and unusual punishment and that it would be further cruelty to try again.

On December 13, 2006, Angel Nieves Diaz was executed by lethal injection. According to witnesses, Diaz was still moving 24 minutes after the lethal injection, grimacing, apparently trying to speak, gasping for air. After 26 minutes his body violently jerked. When the cardiac monitors indicated that Diaz was still alive the team in charge of the execution decided to administer another lethal injection.

[GLOSSARY

- **Abolitionist State:** A US State that has legislatively abolished the death penalty.
- **Abolitionist in Practice:** States that still have the death penalty in law but have not executed anyone within the last ten years and do not intend to execute anybody in the near future.
- **Exoneration:** When a person who has been convicted of a crime and is later proved to have been innocent of that crime.
- **Moratorium:** A general suspension of executions (not abolition) and less frequently on the handing down of death sentences.
- **Retentionist State:** A US State that has crimes punishable by the death penalty.

[SOURCES

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- Death Penalty Information Centre, <http://www.deathpenaltyinfo.org/>
- U.S. Census Bureau, <http://www.census.gov/>
- Witness to Innocence, <http://www.witnesstoinnocence.org/>
- WCADP Joint Submission to the United Nations Universal Periodic Review, 9th UPR Session, Human Rights Council
- World Coalition Against the Death Penalty, www.worldcoalition.org/



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