

REPORT OF THE
COMMITTEE ON CAPITAL
PUNISHMENT

TO

THE LEGISLATIVE COUNCIL
OF MARYLAND



October 3, 1962

REPORT
OF THE
Legislative Council Committee
ON
CAPITAL PUNISHMENT



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COMMITTEE ON CAPITAL PUNISHMENT

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Address Communications to
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LETTER OF TRANSMITTAL

October 3, 1962

The Honorable George W. Della, Chairman
Legislative Council of Maryland
City Hall
Baltimore 2, Maryland

Dear Senator Della:

Enclosed is the report of the Committee on Capital Punishment which was appointed by you. We appreciate this opportunity to serve you and the members of the Legislative Council and the General Assembly. Our work on this controversial subject has been pleasant and instructive to all of us.

May I also take this occasion to thank personally the members of the Committee who have volunteered their time and energy not only in attending meetings but in undertaking various projects at my request.

The Committee greatly appreciates the assistance of the following persons whose contribution to our work was most valuable:

1. James A. McCafferty Criminologist, Federal Bureau of Prisons, who as an interested Maryland citizen, analyzed the data supplied by Mr. Bernard Schulte.
2. Vernon L. Peppersack, Warden, Maryland Penitentiary, who with the wholehearted cooperation of his superior, James W. Curran, Acting Commissioner, Department of Correction, provided access to the records of the Penitentiary.
3. Bernard F. Schulte, criminal record clerk at the Maryland Penitentiary whose experience and industry provided the Committee with the best available statistical compilation of Maryland's life prisoners, and of those prisoners condemned to death within the past 26 years.
4. The Prisoners Aid Association of Maryland for their thorough report on capital punishment which furnished much valuable information to the Committee.

The Committee notes with regret the death during the course of our deliberations of the Honorable Saul A. Harris, State's Attorney of Baltimore City. The final report of the Committee, therefore, does not include the participation of Mr. Harris.

In conclusion, we shall be available to discuss the contents of the report with you and the members of the Council and the General Assembly whenever requested.

Sincerely yours,

RALPH G. MURDY, Chairman
Committee on Capital Punishment

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I.

BRIEF HISTORY OF CAPITAL PUNISHMENT IN MARYLAND

Ralph G. Murdy

The use of the death penalty in Maryland in the last three hundred years has seen fundamental changes in the reason and mode of its application. Since the settlement of Maryland in 1634 the use of the death penalty at public hangings to punish crimes which included stealing and witchcraft has narrowed until the present day when executions are confined largely to murder and rape and take place in seclusion. Since 1923 executions have been performed at the Maryland Penitentiary and since 1957 the method has been lethal gas.

Colonial Hangings

In the Maryland colony early records show only three cases of capital punishment for murder and one for petty treason. Two of these were masters accused of beating servants to death and one was a slave accused of causing the death of his mistress, technically termed petty treason. The remaining case was a woman convicted of killing her illegitimate infant to conceal its birth.

Petty treason was considered a much more serious offense than murder in 17th century Maryland. Accordingly, when a certain slave was found guilty by the Provincial Court of petty treason (causing the death of the wife of his master, Colonel Nathaniel Utie, at Spesutie Island on October 4, 1665), he was sentenced by Governor Charles Calvert as follows: "You, Jacob, shall be drawn to the gallows at St. Mary's and there hanged by the neck until you are dead." Being drawn to the gallows added the indignity of being dragged on the ground behind a horse or cart from the jail to the gallows, and was copied into the Colony's laws from England, although hanging was generally substituted by tacit consent. In accordance with tradition Maryland's early laws also specified beheading rather than hanging for a Lord of Manor, to manifest respect.

On October 9, 1685, Rebecca Fowler was hanged for the practice of witchcraft. John Cowman almost met the same fate as Rebecca when convicted for witchcraft except that the Governor stayed his execution after providing that the Sheriff *first* take Cowman to the gallows and place the rope about his neck. This was done to make Cowman realize he was obligated to the lower house of the Assembly for interceding in his behalf.

Stealing property valued over twelve pence in colonial Maryland was Grand Larceny and punishable by death. However, by demonstrating the ability to read one could claim "benefit of clergy" and be granted the right to escape execution. Developed from a medieval right of clergy to be tried by Ecclesiastical rather than Civil Courts, this exemption was allowed only once to laymen who were branded on the hand to prevent attempts to repeat the exemption. In this manner Pope Alvey escaped execution in 1666 for stealing and killing a cow belonging to Colonel William Evans. Another man condemned to death for stealing was pardoned on condition he serve thereafter as a common hangman. Similar to the procedure with

Cowman, the pardon was kept secret until *after* the prisoner had been carried to the place of execution and the rope placed about his neck.

"An Act Concerning Religion" passed in 1649, frequently referred to as the Toleration Act, provided punishment by death for blasphemy and denial of the divinity of Christ or the Holy Trinity. The Acts of October 26, 1723, made a third conviction for blasphemy punishable by death without benefit of clergy.

On January 6, 1810, the criminal code was revised to limit punishment by death for crimes of first degree murder, rape, arson, and treason, while benefit of clergy was forever revoked. The major difference when compared with present laws was that a conviction for first degree murder brought a mandatory sentence of death and this continued until 1908 when the law was amended to permit life imprisonment.

In 1818 two mail robbers hanged in Baltimore became the first men in the City's history executed by a drop and trap door. Formerly the condemned stood on a cart which was driven from under them, leaving them to strangle. The trap door was introduced by the United States Marshal "from a laudable respect to humanity."

Gallows Hill

During the early centuries, executions in Maryland were performed by public hanging, generally at a gallows close to the county jail. There is a tale that at one period the City of Baltimore executed its condemned at a site known as Gallows Hill, purported to have been located near the present intersection of Chase and Aisquith Streets and Harford Avenue.

In 1807 and 1808 Baltimore mobs held mock hangings, the first of which was announced for Gallows Hill, not further described, while the second took place on Hampstead Hill, now Patterson Park. At the same time, we know that beginning in 1808, all Baltimore City hangings so far identified, took place in the jail yard. A raised platform was used to insure good observation until 1873. From 1873 until 1913, a secluded part of the yard property was used and on January 3, 1913, the first inmate was hanged inside. The last inmate hanged at the jail met his end on April 6, 1923.

No Doubts

Hangings at the Baltimore City Jail were infrequently recorded in the Annual Reports of the Board of Visitors until near the beginning of this century. From the reports we can see some hesitation in hanging women, but unlike New York State which turned to electrocution in 1890, Maryland then had little doubt about the continued effectiveness of the rope for capital offenders. One such notation was made by Warden John R. Bailey on December 31, 1897, "I cannot help but speak of the fact regarding Peter Monahan, the noted wife murderer, whose execution on the the 13th day of August last, was carried out to the letter of the law without a jar or hitch in any of the proceedings."

Warden Bailey's successor, Warden Charles E. Smith, noted a quadruple hanging on the morning of July 28, 1899.

Warden James T. Doyle noted in his report of January 1, 1903, that the sentence of death pronounced against Mary Jackson for the murder of her husband was commuted to life imprisonment on February 4, 1902, "through the intercession of the Board."

Isaac Winder Case

A hanging which took place at the Towson Jail in Baltimore County on March 30, 1906, was said to have been witnessed by an estimated crowd of 2,000 people. Notes were made from a contemporary account in the *Baltimore American*.

William Charles Winder, age 17, Negro, 2211 Hunter Alley, Baltimore, was arrested by city detectives on December 22, 1905, and was said to be one of two men who assaulted and killed Frederick T. Rinehart, age 65, keeper of the tollgate on Dulaney's Valley pike, about two miles north of Towson at 11:30 p. m. on Thursday, December 21, 1905. Isaac Winder, age 34, an uncle of William Winder, was captured the following day north of Phoenix. The Winders said they had been drinking and both admitted the robbery attempt, although each initially accused the other of shooting Rinehart. At his trial, Isaac Winder admitted shooting Rinehart but claimed it was self-defense after Rinehart had shot him in the stomach. He was found guilty of first degree murder and sentenced to be hanged on March 30, 1906. His nephew, William Winder was tried at Bel Air and sentenced on February 20, 1906, to serve 18 years in the Maryland Penitentiary for murder in the second degree.

After two unsuccessful attempts to escape from the Towson Jail, Isaac Winder discovered a lever to open his cell door without a key and ran from the jail about 9 p. m., March 5, 1906. An armed posse led by the Chief of Police, Abraham T. Streett of Baltimore County and Sheriff Jacob Elliott set out to corner Winder near Cockeysville and later, Hersch "Hurricane" Branch of Suffolk, Virginia, was employed to lead a search with his bloodhounds. Pursuit was fruitless and after some of the men following the famous Southern detective became intoxicated, the affair ended in a disgraceful fiasco much to the disgust of Branch. Winder was finally recaptured on a farm near Loch Raven on March 20, 1906, by Chief Streett after fifteen days of liberty and held in Baltimore City Jail because rumors of lynching had reached Baltimore County authorities.

The day before the hanging, Winder's minister filed for an entertainment license in Baltimore City in order to exhibit Winder's body for a ten cent admission charge. Although the minister explained the need to collect burial expenses for the family, his application was denied. There was an extraordinary demand for admission to the execution and by ten o'clock on the morning of the execution day, scenes of wild disorder prevailed in Towson. At 10:30 a. m. over a thousand persons had assembled into a mob outside the jail. Finally, a mob crashed through the wooden stockade which had been erected and joined the four hundred ticket holders inside while some people climbed trees and roofs in the vicinity for a vantage point. The trap was sprung at 11:38 a. m. after an eight-minute struggle by Winder with his executioners witnessed by a pressing crowd estimated at 2,000.

Hanging of William Lee

Another hanging which took place later in 1906 has been described as the strangest execution in Maryland's history.

William Lee, a Negro, was accused of the crime of rape in Somerset County and tried in Baltimore on July 5, 1906, because feeling ran so high against him in his own county. He was convicted in three hours and Governor Edwin Warfield promptly scheduled Lee's hanging for July 26, 1906. Although the law required the execution in Somerset County, its exact location was kept a secret.

Learning of unrest and rumors of a possible lynching, the Governor quietly ordered the Somerset County Sheriff to report to him in Baltimore on July 25th. Late that evening, the prisoner in custody of Sheriff Brown and his deputies, together with a strong guard of Baltimore detectives, his spiritual advisor, and some reporters sailed out into Chesapeake Bay on the official steamer Governor McLane. After they were well offshore, sealed orders from the Governor were read and the party landed on Smith Island, a part of Somerset County, to carry out the sentence of hanging by means of the portable gallows aboard the steamer. This was done in the early morning hours of July 26, 1906, in the presence of the sailing party and some local fishermen.

Maryland Penitentiary

In 1922, after nearly two decades of disorder at hangings, the General Assembly changed Maryland's statutes to centralize hanging of convicted felons at the Maryland Penitentiary. The intention of the legislation introduced by Senator David G. McIntosh of Baltimore County was to relieve the counties of Maryland and the City of Baltimore from curious mobs that frequented hangings and attempted to make public affairs of the same. This change became effective for all crimes committed on or after January 1, 1923.

Acts of the Special Session of the Maryland General Assembly of 1933 relieved Worcester County from payment of \$6,028.09 charged by the Maryland Penitentiary for guarding, feeding and keeping committed prisoner Eucl Lee. Furthermore, the Legislature provided the State of Maryland would henceforth pay the expenses of detaining all offenders sentenced to death.

In 1951, the General Assembly passed legislation which placed the responsibility for fixing the week of execution in the hands of the trial judge rather than in the Governor. It also required the trial judge to reset the week of execution after all pleas to higher courts had been heard. After sentence has been passed the Governor may issue a stay of execution on three grounds: (1) That the person sentenced to death is pregnant; (2) That the individual has been found to be insane; and (3) Other cause. In addition to this legislation, the Governor has a constitutional power to grant reprieves and pardons.

Lethal Gas

In April 1955, the Governor signed into law an act which requires that death shall be imposed in legal executions by the admission of lethal gas. The provisions of the law apply to offenses which occurred on or after June 1, 1955, and the first execution by this method took place at 10:00 p. m., June 28, 1957. Since then three other men have been executed by lethal gas.

Between June 1, 1923, and September 1, 1962, Maryland executed 79 men at the Maryland Penitentiary. Of these, 62 were Negro and 17 were white. The crimes for which they were executed were as follows:

	Number	White	Negro
RAPE	27	6	21
MURDER	52	11	41
	<hr style="width: 50%; margin: 0 auto;"/>	<hr style="width: 50%; margin: 0 auto;"/>	<hr style="width: 50%; margin: 0 auto;"/>
TOTAL	79	17	62

II.

MARYLAND STATUTES PROVIDING FOR CAPITAL PUNISHMENT

The following sections of Article 27 of the Annotated Code of Maryland (1957 Edition as amended from time to time), permit the imposition of the death penalty as specified:

Section 12. Assault with intent to rape (punishable in the discretion of the court by death, life imprisonment, or a term of not less than two nor more than 20 years; the jury in its verdict may specify "without capital punishment", in which case the sentence may not be the death penalty and may not exceed 20 years).

Section 461. Rape (death, life imprisonment or not less than 18 months nor more than 21 years; jury may specify "without capital punishment", in which case the sentence may not be the death penalty and may not exceed 20 years).

Section 462. Carnal knowledge of child under 14 or insane woman of any age (same penalties as specified for rape in Section 461).

Section 337. Kidnapping (death or not more than 30 years).

Section 338. Kidnapping children under 16 (same penalty as specified for kidnapping in Section 337).

Section 413. First degree murder, which is defined in the Code to be murder perpetrated by poison, lying in wait, or by any kind of wilful, deliberate and premeditated killing, or committed in the perpetration of or attempt to perpetrate, arson, rape, sodomy, mayhem, robbery, burglary, or escape or attempt to escape from the Maryland Penitentiary, House of Correction, Baltimore City Jail or from any jail or penal institution in any of the counties (death penalty or life imprisonment; jury may specify "without capital punishment", in which case sentence shall be life imprisonment).

III.

PRISONERS SENTENCED TO DEATH IN MARYLAND

1936-1961.

**James A. McCafferty*

Introduction

In early 1962, the Committee on Capital Punishment, appointed by the Legislative Council of Maryland, arranged for the Maryland State Penitentiary to complete a set of special cards developed by the U. S. Bureau of Prisons. These cards, "Prisoners Under Sentence of Death"¹ were completed by Mr. Bernard Schulte, Record Clerk, in the period February 16-23, 1962.

A sample card (both sides reproduced in the appendix) includes 29 items about which all but a few are of statistical nature. (Name, serial number, collateral references, signature and title of recorder are non-statistical.) One card was filled out for each of the 122 prisoners received under the death sentence during the 26-year period. (One prisoner was executed during the period, but he was received prior to 1936.)

Data were taken from the prisoner's case file which included the FBI previous record sheet, court records, institutional materials and related information.

These records were given to the writer for tabulation and analysis.

Method of Presentation

The study of the death sentence from the point of disposition suggests the finality of society's supreme penalty. For it is the disposition which illustrates the use of the penalty since, as this study will show, the imposition of the death sentence by the court does not necessarily mean that the death sentence will be carried out.

The study is divided into four parts with a closing summary. The parts are:

- A. Time (Appendix A)
- B. The Prisoner (Appendix B)
- C. The Offense (Appendix C)
- D. Prior Record of the Prisoner (Appendix D)

SUMMARY

This report covers the 122 prisoners received into the Maryland State Penitentiary Death Row during the 26-year period 1936-1961. In this period 57 were executed, 34 were commuted to life, 9 received a new trial,

* Resident of Forest Heights, Maryland, who volunteered technical assistance as a citizen of Maryland. He is familiar with the matter of collecting and presenting statistics on the use of the death penalty.

¹ Described in; McCafferty, James A., "The Death Sentence and Then What?", *Crime and Delinquency Journal*, October, 1961, Vol. 7, No. 4, pp. 363-372.

2 committed suicide and 20 were under a death sentence on December 31, 1961.

1. *Dispositions*

Highlights from this report show: For each 10 cases disposed of 6 had been convicted for murder and 4 for rape. For those disposed of who committed murder (61), 36 or 59.0 percent were executed whereas for the 41 disposed of sentenced to death for rape, 21 or 51.2 percent were executed. The extent to which commutation to life imprisonment was used was proportionately lower for murderers, 31.1 percent, as contrasted to those convicted of rape, 36.6 percent.

In the first 15 years of the 26-year period there were 72 dispositions with 50 executions. In the last 11 years, there were 30 dispositions with only 7 executions. Not only has there been a drop in dispositions but executions have dropped off even more.

2. *County of conviction*

Among the 23 counties, 10 have not used the death penalty during the 26-year period for either murder or rape and in two other counties prisoners sentenced to death were not executed. Baltimore City accounted for half of those executed for murder. Baltimore City, and the counties of Anne Arundel, Baltimore, Montgomery, and Prince George's accounted for the majority of those executed for rape.

3. *Elapsed time*

The average days of elapsed time between sentence to death and disposition was lowest for prisoners executed. For the 57 executed the average number of days was 220, for the 36 executed for murder the average number of days was 257, for those executed for rape, the average number of days was 158.

Prisoners who had their death sentences commuted to life averaged 388 days between sentence and commutation. Murderers commuted to life averaged 448 days; rapists 312 days.

Nine prisoners who received new trials averaged 249 days.

For prisoners in Death Row on December 31, 1961, elapsed time was longer than for any group disposed of. Of the twenty in Death Row eight had been under sentence of death more than one year.

4. *Place of birth*

Persons born in Maryland appeared to have a better chance to escape execution than those born in other states. This was true whether the offense was murder or rape.

5. *Marital status*

Six out of 10 prisoners executed were single. For those executed for murder 7 out of 10 were single; for those executed for rape 5 out of 10 were single. Single prisoners, proportionately speaking, had somewhat a greater chance to be executed in contrast to the married offender.

6. *Age and race*

The median age of all 122 prisoners committed to Death Row was 27.8 years; for murderers, the median was 28.9 years, and for those convicted of rape, 25.5 years.

The youngest prisoner to be executed for murder was an 18-year-old, the oldest was 54. Two 19-year-olds were the youngest executed for rape. Other persons aged 19 and under and their disposition were: for murder, one 18-year-old; for rape, one 16- and one 17-year-old had their death sentences commuted to life; for rape one 19-year-old was granted a new trial.

Of the 20 white prisoners who were disposed of, 10 were executed, 8 were commuted to life, 1 received a new trial and 1 committed suicide. For the 72 Negro prisoners 47 or 65.3 percent were executed, 26 or 36.1 percent were commuted to life, 8 were granted a new trial and 1 committed suicide.

7. *Last school grade*

For prisoners received into Death Row the median grade completed was 7.5, for those executed the median was 7.0 grade. Murderers who were executed had a median grade completed of 7.5 whereas those executed for rape the median was 5.3 grades. For the Maryland population aged 25 years and over, the median school year completed was 10.4.

8. *Major occupation*

Laborers accounted for 47.5 percent of the prisoners received into Death Row. Twenty or 16.4 percent were reported to be engaged in the trades, 13 in farming, 7 in service occupations and the remaining 24 were classified in "other occupations."

Among prisoners executed laborers accounted for about 6 out of 10. For those commuted to life the ratio of laborers was 5 out of 10.

9. *Motive for offense*

Motives are difficult to determine from the prisoner's record; however, there is evidence that where a prisoner is sentenced to death for killing during a robbery or burglary there is greater likelihood that he will be executed than for murders committed for other reasons.

10. *Victim's relationship to defendant*

Unlike studies of interpersonal relationships among persons who commit murder, which show that between 75 to 88 percent know each other, among the 71 murderers received into Death Row for whom the relationship of the murderer and his victim was known, 60.0 percent were total strangers.

The "strangership" phenomenon is related to the motive of the offense and would be particularly significant in instances where there was a killing during a robbery or burglary.

Of those committed to Death Row for rape, only three knew their victim.

11. *Weapon used*

Where the weapon was recorded, for the 122 commitments to Death Row, 9 used no weapons except threats; 46 used a handgun (34) or a rifle or shotgun (12); 12 used a knife and 4 used a cutting instrument, such as an axe; and a form of assault either with a weapon (9) or bodily (12) was carried out in 21 cases. (For 30 prisoners the weapon used was unknown.)

12. *Place of occurrence*

A capital offense can happen anywhere and often is connected with the offender's motive. Other than adding to knowledge about place of occurrence, this information provides little in this study.

13. *Prior record of the prisoner*

The number of prior arrests, convictions and commitments to serve a sentence for those received into Maryland's Death Row are quite high and refute the generally held view that those who are sentenced to death often are unknown to law enforcement and the courts.

For the 122 prisoners received into Death Row, prior commitments were unknown for 15, though it was known that 5 of these had been arrested for one or more times (one of these 29 times). Twenty-eight had no prior arrest, 6 had been arrested, but not convicted and 2 had been arrested, convicted, but not committed. Of the remaining 71 all had records of arrests, convictions and commitments.

Of the 71 with prior records, 30 had only one commitment, 15 had two commitments, 11 had three commitments; 9 had four and 6 had five to ten commitments.

For those executed seven out of ten had prior commitments. For those commuted 59.4 percent had prior commitments.

Thus, where evidence on prior record was available, seven out of ten had a prior commitment.

14. *Most serious prior offense*

For the 71 prisoners received into Death Row for whom the prior offense was recorded, 28 or 39.4 percent were previously committed for crimes against the person, another 49.3 percent committed property crimes and the remaining committed offenses which could not be classified.

The record of prior offenses clearly shows that in Maryland a majority of the prisoners committed to Death Row have previously been committed to serve a sentence ranging from murder to drunkenness.

For those disposed of during the period 1936-1961, one-half of those with no prior commitment record were executed. With those with records who were disposed of, 60.3 percent were executed.

IV.

PRISONERS SENTENCED TO LIFE IMPRISONMENT RECEIVED
IN THE MARYLAND PENITENTIARY BETWEEN JANUARY 1, 1936
AND DECEMBER 31, 1961.

First Degree Murder

Originally sentenced to life imprisonment:

1936-1940	57
1941-1945	47
1946-1950	40
1951-1955	49
1956-1960	51
1961	18

TOTAL	262
Less sentences later changed	37

Total remaining life imprisonment
sentences for first degree murder 225

Rape, Carnal Knowledge, or Assault with Intent to Rape

Originally sentenced to life imprisonment:

1936-1940	2
1941-1945	16
1946-1950	20
1951-1955	16
1956-1960	13
1961	2

TOTAL	69
Less sentences later changed	10

Total remaining life imprisonment
sentences for rape, et al 59

GRAND TOTAL 284

*Disposition of 284 Life Termers in the Maryland Penitentiary Between
January 1, 1936 and December 31, 1961.*

Percent		Number
59%	Never paroled and still in Maryland Penitentiary serving life sentences	168
5%	Transferred to mental institutions	14
15%	Transferred to other penal institutions	42
14%	Paroled	41
7%	Died while in Maryland Penitentiary	19
<u>100%</u>	Total	<u>284</u>

Analysis of Life Termers Paroled

Total Paroled

First degree murder	37 out of 225 or 16%
Rape, et al.	4 out of 59 or 6%
	<hr/>
Total parolees	41 out of 284 or 14%

Violated Parole

First degree murder	9
Rape, et al.	2
	<hr/>
Total violations	11 out of 41 or 26.8%

Average Time Served by Parolees

37 murderers served an average of 15½ years
4 rapists served an average of 16½ years

Degree of Parole Violation

Driving without license (60 days jail)	1
Absconded from parole	2
Absconded, parole never revoked, now under supervision	1
Assault and larceny (6 mos. House of Cor.)	1
Assault and striking (60 days jail)	1
Drinking while on parole	3
Threatening wife—will be reparaoled	1
Assault to rape (2 cases) 25 years	1
	<hr/>
	11

V.

MURDERS IN BALTIMORE CITY, 1960

Beginning January 1, 1960, the Baltimore Criminal Justice Commission began a five-year analysis of homicide cases in the City of Baltimore. The Baltimore Police Department and Dr. Marvin E. Wolfgang, who completed a similar study in Philadelphia in 1958, are cooperating with the Commission in its analysis. The usual police category comprising first or second degree murder and non-negligent manslaughter is being used as the definition of homicide for this analysis. Tables showing the results of the first year's research will be found in the Appendix.

Based on a total population in 1960 of 939,024, Baltimore City had a homicide rate of 10.9 per 100,000 population. This compares with a rate of 7.2 for metropolitan Baltimore and 5.5 for the entire State. Baltimore City had 103 out of 170 homicide cases reported for Maryland in 1960. The Baltimore rate of 10.9 was well above the rate for Middle Atlantic States of 2.8 but closer to the South Atlantic States rate of 9.7. The majority of the Baltimore homicides involved Negroes killing members of their own race.

According to the Commission analysis, sex, alcohol, and stupidity encompass the outward characteristics of most murder scenes. Twenty percent of the victims were completely under the influence of alcohol and a significant number of additional victims and offenders had been drinking heavily. In its analysis of personal motives in the 103 homicides the Commission listed:

Motive	Number
Altercation of relatively trivial origin, insult, curse, jostling, etc.	28
Domestic quarrel	10
Jealousy	8
Altercation over money	8
Robbery	5
Revenge	11
Accidental	10
Self-defense	9
Concealing birth	1
Others	10
Unknown	3
Total	103

Summing up these murder motives, the Commission decided that "stupidity and impulsiveness seem to be tragically common denominators." In this conclusion they were joined by the New York City Police Department's study of 483 homicides which occurred in that city in 1961. According to that study "most murders are not carefully planned nor are they of the gangland or underworld type; most are spontaneous and the bulk of them are committed in homes and many occur as the result of family disputes."

According to Dr. Manfred Guttmacher, author and Chief Medical Officer of the Supreme Bench of Baltimore, criminological studies have shown the great majority of youthful slayers, holdup men, and those who kill after an insignificant quarrel come from the economically and socially underprivileged part of society. Their early conditioning to cruelties and miseries of every kind predisposes them to a marked lack of value for life itself.

A less scientific approach was taken by columnist, Robert C. Ruark, who forcefully presented a widely held formula among those favoring retention of capital punishment:

"The Mosaic law was good enough for the Biblical people and I am getting to be strictly an eye-for-eye, tooth-for-tooth cat myself. 'Thou shall not kill' is a good line and, if you do, the idea is that somebody ought to kill you right back as swiftly as possible and with a minimum of sentiment or excuse. If this sounds harsh, I quote the Bible and J. Edgar Hoover as my principal teachers."

In the 103 cases of homicide investigated in Baltimore in 1960, 101 cases were noted as solved and 111 people were charged. Four other would-be defendants committed suicide. Of the 111 defendants charged, 54 percent were ultimately convicted in Criminal Court and 32 percent were dismissed. The remainder were disposed of for various reasons. Analyzing the results of Criminal Court trials for the 60 defendants who were convicted, we note 30 percent convicted of first degree murder, 37 percent of second degree murder and 33 percent of manslaughter. Five of the 60 convicted have since been paroled and several others have probably completed their sentences. Fifteen received life imprisonment terms and 3 were sentenced to death out of the original 111 people charged.

VI.

EFFECTS OF CAPITAL PUNISHMENT ON CRIMINAL JUSTICE

Since the creation of this Committee in the Fall of 1961, a Maryland attorney and author has published a book entitled, *Death and The Supreme Court*. Its author is E. Barrett Prettyman, Jr. Mr. Prettyman illustrates a recent facet of capital punishment beginning to disturb some people interested in the American system of jurisprudence, namely, the disruptive influence within recent years of cases involving the death penalty. Mr. Prettyman has limited his observations to recent cases coming within the jurisdiction of the United States Supreme Court.

According to Mr. Prettyman each of the nine Justices on the United States Supreme Court pays meticulous attention to the file when he sees the label "capital case" printed in red on the outside cover. In fact, capital cases receive more attention than any other class of cases coming before the Court. The Court overcomes all kinds of difficulties to devote a disproportionately large amount of time to their study. Since the Justices are acutely aware of the attitudes many state courts have toward the exercise of Federal authority in state cases, they practice a judicial self-restraint which has prevented many capital cases from being reversed. Attorney Prettyman, who clerked for three justices, believes reversals in capital cases would rise precipitously if the Court had the same "supervisory" power over the state courts that it has over lower Federal Courts.

Mr. Prettyman concludes, with his personal opinion, that many delays, and many decisions in Supreme Court cases can only be explained by a situation in which the justices are compelled to recognize and enforce a penalty they abhor—the death penalty. Rules are stretched and some "bad law" is made because doubts are resolved in favor of the accused.

VII.

VIEWS OF MARYLAND CITIZENS ON CAPITAL PUNISHMENT

Early in its deliberations this Committee was of the firm opinion that citizens of Maryland should have an opportunity to be heard on the important issue of capital punishment. Accordingly, arrangements were made to receive correspondence from interested citizens who could address mail to Capital Punishment, Box 1491, Baltimore 3, Maryland. In this effort the Committee received invaluable assistance in publicizing its solicitation through press, radio and television cooperation throughout the State of Maryland.

Finally, 1458 replies were received of which 777 affirmed their belief that capital punishment should be retained and 681 declared that capital punishment should be abolished. The comparison was 53% in favor of retaining capital punishment and 47% desiring its abolition.

An analysis of the mail received was made by Mr. Bruce Winters of the *Evening Sun* whose article appeared on April 26, 1962. Mr. Winters' article gave a comprehensive view of the trends noted in the correspondence received by the Committee and is reprinted as follows:

"Responses Vary on Capital Punishment"

Should Maryland abolish the death sentence?

A convicted rapist, who maintains his innocence, says 'yes' because 'it could happen to you.' A Baltimore jury spared his life.

A former parole officer says 'no.' Capital punishment is a deterrent to crime, he claims.

These replies are among 1337 postcards and letters received by a legislative committee studying the possibility of abolishing the death sentence in Maryland.

Opinion is almost evenly divided. A tally shows 54 percent favors its retention, while 46 percent want execution halted.

"Division of Opinion"

Headed by Ralph G. Murdy, managing director of the Criminal Justice Commission, the study group will report this summer to the Legislative Council.

A division of opinion on the committee itself makes it unlikely that a unanimous recommendation will be presented.

A request from Mr. Murdy, a former FBI agent, for public reaction has engendered an emotional outpouring indicative of the deep feelings both pro and con on the subject.

Very few of the responses have been of the crackpot variety. Almost every letter has been signed. The writers have been stirred by basic convictions which prompted two responses in poetry.

"Not Changed Much

A Washington area man said the arguments for and against 'have not changed very much since they were summed up by Thucydides in reporting the debate between Cleon and Diodotus.' He favors continuing the death sentence.

Those opposing execution refer to judicial mistakes, religious and moral proscriptions against taking human life, and the debasing effect on society of planned death.

Supporters, in one way or another, insist the supreme penalty deters crime. The former parole officer expresses their view: 'Capital punishment does deter. This may not be known to city dwellers where relations between neighbors is loosely impersonal.'

"Rising Rate Halted

'In rural areas it is different. I know of two counties here on the Eastern Shore where a rising rate of homicide was halted in the mid-Forties by a quick series of executions.'

The rapist offers this personal observation: 'The jury of twelve unbiased everyday citizens, who are not infallible, did very well find me guilty of a crime that I really did not commit, but they also said three little words beside guilty: without capital punishment.'

He said attorneys have filed a new trial motion in his case.

A letter on college stationery touches the same point: 'Man has perfected the electric chair, the gas chamber. They rarely make mistakes. However, juries and judges have not proven so infallible.'

"Contrary Stand

A Northwest Baltimore couple takes a forceful contrary stand: 'Doing away with capital punishment is unthinkable. Why put rapists and murderers on permanent relief? This element of society will pause to reflect when they know execution is certain. We also need to elect governors who uphold the law. Former Governor McKeldin always wept for the criminals and Governor Tawes is very little better.'

On a postcard, a 38-year-old woman was even more succinct: 'Off with their heads!'

"Offers Compromise

A Takoma Park attorney, who said he had the 'unfortunate experience' of representing a defendant given the maximum penalty, offered a compromise supported in many responses.

'One solution to this problem,' he writes, 'would be a mandatory life sentence wherein parole would not be possible.'

Regarding this suggestion, Mr. Murdy observed that many penal experts believe the no-parole sentence for life-terms creates a hard core of incorrigibles in prisons who fear no authority because they can never be set free. They are robbed of incentive to behave, he said.

An educator offers this refinement to the proposal: 'A workable compromise might be to keep the death penalty for two offenses: for

killing a police officer, and for the act of murder committed by a prison inmate serving a life term.'

He adds further: 'Abolition of the death penalty is meaningless unless such action is accompanied by reform in the State's penal and parole practices.'

Calling executions a 'blot', a rabbi wrote: 'It seems to me that capital punishment represents a relic of barbarism which we should have long outgrown. From a religious and moral standpoint, how can we profess our belief in the sanctity of human life and at the same time cold-bloodedly kill even a criminal?'

Using religious argument in a different way, a Washington area man in favor of execution notes that 'so many people are against capital punishment . . . (because) they don't believe in a hereafter.' He added: 'I know that we will all face a Great Court after death, and that no court on earth can destroy anyone.'

"Death Too Final"

Speaking on behalf of a national organization, a local representative said 'death is too final to be imposed by a fallible judge and/or jury.'

Marshaling his case with facts and figures, the man concludes: 'It is imposed in a discriminatory manner. It is usually the indigent, the friendless, the immigrant, and, especially, the Negro, and the male who receives this vicious punishment.'

Making similar points, a New Windsor resident then suggests 'that a prisoner may experience a sincere revulsion from his crime and this may lead to a genuine reformation of character.'

Another Baltimore man brushes this philosophy aside. 'There is too much leniency for criminals in recent years prompted by misguided sentiment. I have recently read that most of the FBI agents killed while making arrests were killed by men who had been released on parole or on reduced sentences.'

"Hanging Is Favored"

From Curtis Bay, a man supporting the death sentence thinks 'it would be O.K. to execute the person in the same manner they committed the murder.'

An Annapolis man favors 'hanging rather than the gas chamber, because hanging is more humane, if done properly.'

A West Baltimore man proposes that if public sentiment approaches an even split on the issue, 'the guilty person selects either the death penalty or life imprisonment without recourse to pardon or parole.'

Then he suggests: 'It could easily be arranged that the guilty person himself pulls the switch, or closes the door, or opens the valve, or etc., and in so doing takes his own life.'

"For Whipping Post"

A Baltimore couple supporting capital punishment adds that they 'also would like a law to bring back the whipping post for the yokers and hold-up men, who beat up victims and rob them.' They added: 'The

do-nothing courts are a disgrace to a civilized country. It is not even safe to walk the streets in (the) center of (a) city in daylight.'

And so the debate continues, the arguments of each side fed by deep well springs of emotion based in large measure on an accumulation of every individual's experience.

But some respondents have very little experience in life. From Bel Air: 'No, I do not believe in capital punishment. It is disobeying the Fifth Commandment, I am 7 years old.' "

On July 27, 1961, a committee on capital punishment of the Prisoners Aid Association of Baltimore submitted a report to the Board of Trustees of the Prisoners Aid Association recommending a position in favor of the abolition of capital punishment in Maryland. In compiling its report the committee sought views of prominent individuals both for and against capital punishment. A summary of the responses received follows:

Persons in Favor of Retention of Capital Punishment

James M. Hepbron, former Police Commissioner of Baltimore City:

"I believe in capital punishment because there is no gainsaying the fact that the person executed is absolutely deterred from repetition of his crime.

"It is frequently argued (fallaciously, in my opinion) that capital punishment does not deter others. However, only those whom it does *not* deter are known. How many contemplate killing and are deterred, there is no way of knowing. As Wigmore, the famous authority on evidence, said, 'The crimes which are contemplated but never committed bear the same ratio as the submerged portion of an iceberg bears to the part above water, which is approximately eight to one.'

"The most recent survey on the subject with which I am familiar is a Gallup Poll made in England. Support for capital punishment was shown to be at about 70%, which is very nearly the highest point ever recorded in England. Today (reported May 16, 1961) only 19% of the English want to abolish the death penalty, whereas in 1938 the figure stood at 40%."

Wallace Reidt, former Director of Maryland Department of Parole and Probation:

"I have given a great deal of thought to this matter and have to advise that I am in favor of the retention of the provision for capital punishment. I know that there has been a great deal of feeling about this matter and that some very well intended persons have gone a long way to have capital punishment abolished.

"Several years ago a bill was introduced in the Maryland legislature to abolish the death penalty, but this would also have eliminated any chance of parole. I believe it would have been a very bad bill. I believe that people can change their ways in many instances and that if a person of normal intelligence has, after a period of time, paid his debt to society he should be given an opportunity, under proper circumstances, to again become a decent citizen.

"If capital punishment is abolished, there will be considerable pressure to prevent parole in life terms and there will be removed what I believe is a great deterrent in the handling of prisoners in institutions.

"Most persons connected with institutions feel that unless there is some fear of punishment or hope of reward that a good many life-termers would cause a great deal of trouble in the institutions and make the work of prison officials much more dangerous than it now is.

"It is my understanding that in some states the death penalty is only reserved for those who kill prison guards while serving penal sentences. Unfortunately many of the fiends who murder and ravish citizens are not amenable to rehabilitation and the infliction of the death penalty seems to be a real necessity.

"These views are, of course, my own and do not represent the views of the Board of Parole as such."

Persons in Favor of Abolition of Capital Punishment

George D. Hubbard, former Associate Member of Maryland Board of Parole and Probation:

"In reply to yours of June 19 last, inquiring as to my views on capital punishment in Maryland, I am quite definitely of the opinion that it should be abolished. It serves no useful purpose, it sometimes falls on innocent heads, and it is hardly compatible with the values of a civilized society in a free country. . . .

"From what I have seen from four years of service on the Parole Board, very few capital crimes are of the planned variety, and I have never seen a case where the threat of capital punishment could be said to have been a deterrent. I suppose that one might answer with the comment that this is only natural, since those deterred did not commit crimes. I believe that the available evidence from jurisdictions not having capital punishment affirms the statement that the rate of capital crimes is no higher despite the absence of this alleged threat."

Bishop John Wesley Lord, The Methodist Church, the Washington Area:

"The Methodist Church speaking at its 1960 General Conference through its Social Creed declared 'We stand for the application of the redemptive principle to the treatment of offenders against the law, to reform of penal and correctional methods, and to criminal court procedure. For this reason we deplore capital punishment.'

"The General Conference of the Methodist Church opposed capital punishment because it is primarily punitive and retributive in character and destroys the possibility of reformation and rehabilitation of the offender. Through its use there is always the possibility that an innocent person may be put to death. It is a poor instrument of justice by the fact of the frequency with which the death penalty is evaded by those having wealth and influence, while it falls disproportionately upon the poor, the friendless, and those of minority groups.

"Capital punishment is most often supported upon the ground of its being a deterrent to homicide and other serious crimes. Repeated statistical studies have shown that this assumption is without foundation. In the nine states of the U.S.A. which have abolished capital punishment

the homicide rate is similar to or lower than the rate in the states which retain it. The most effective deterrent is not the severity, but the swiftness and certainty of punishment, and reluctance to impose the death penalty where it has legal status has often led to long delays and to unmerited acquittals.

"Punishment when meted out with justice and with concern with the welfare of the offender, as well as for the protection of society can be an instrument of discipline, reform, and rehabilitation. It is obvious that this possibility is removed by the death penalty.

"Increased knowledge of the psychological and social causes of crime tend to discredit the belief that fear of the death penalty is a deterrent. Homicide and other serious offenses are usually committed by emotionally unstable or socially maladjusted persons in whom powerful emotions outweigh any conscious thought of penalty.

"A Christian view of punishment must look beyond correction to redemption. It is our Christian faith that redemption by the grace of God is open to every repentent sinner, and that it is the duty of every Christian to bring to others by every available means the challenge and opportunity of a new and better life. We believe that under these circumstances only God has the right to terminate life. Gathered here are some of my conclusions as to the wisdom of abolishing capital punishment within the State of Maryland."

Honorable Theodore R. McKeldin, former Governor of Maryland (excerpts from a copy of an address which Mr. McKeldin submitted to the Prisoners Aid Committee as presenting his views):

". . . The arguments against capital punishment are innumerable, but in the final analysis they can be reduced to two: first, the policy of capital punishment does not produce the good effects that the law intends; and, second, it does produce evil effects that the law does not intend. . . .

"The function of all legal punishment, including capital punishment, is to assure the safety of the law-abiding by deterring the lawless from criminal acts. Long ago men realized that the most effective deterrence is the reformation of the criminal, and modern penology works steadily toward that end. Next to reformation is restraint, which may take any form from mere probation to life imprisonment. Infliction of the death penalty is a confession that the better methods have failed, which means that in the specific case society has failed. . . .

"Six American states have abolished the death penalty, and in not one of them has the murder rate increased appreciably. If the penalty had really been a deterrent, its abolition should have been followed by a marked increase in that crime; but nothing of the sort occurred. Penologists have an explanation. They point out that murder is practically always committed under very unusual circumstances, giving rise to emotional stress unlikely to be repeated; and if the emotional stress is violent enough, nothing will deter the act.

"Since there is no convincing proof that the death penalty does anything to protect law-abiding people, and since there is very convincing evidence that it can be, and sometimes has been wrongfully inflicted, the case against it would seem to be proved without mentioning the philosophical and theological arguments against it. But there is further evidence to be found in one of the arguments that advocates of capital punishment constantly use.

"This is the argument that when an atrocious crime is committed, the public excitement is such that nothing less than the penalty of death will allay it, and any milder sentence would tend to create disrespect for the law.

"The truth is the reverse. It is already existing disrespect for the law that demands the death penalty and the penalty tends to perpetuate and encourage that form of disrespect. . . .

"The function of the criminal law is to protect the law-abiding, not to sate society's lust for revenge. Only as the protector of the lives and property of honest men does it deserve the respect and support of honest men. Hence anything that tends to associate it with the idea of vengeance impairs its dignity and subtracts from the respect that intelligent people accord it. The argument that the death penalty is needed to allay public excitement is an argument against capital punishment, not in its favor."

The Rt. Rev. Noble C. Powell, D.D., Episcopal Bishop, the Diocese of Maryland:

"I cannot speak for the Diocese of Maryland, because the Diocese has taken no position, so far as I know, and I am without authority to commit the Diocese to a decision in this matter. All that I could do would be to speak as an individual citizen, purely personally and entirely unofficially, committing no one but myself.

"My own position on this question has, for many years, been that personally I believe the State has no right to take from one that which the State did not originally bestow and which, once taken from the individual, cannot be restored by the State."

Rev. Francis M. Tobey, S.J., Chaplain, Maryland Penitentiary:

"Although I believe that on moral grounds the state has the right to take the life of one of its members, I am convinced that on a practical level, the state should not use this right. I am therefore in favor of the abolition of capital punishment. I seriously question the deterring value of capital punishment and therefore question that it is necessary to keep or restore order to society. I feel that in the framework of our present legal system, that is, the operation of the courts, there is much room for injustice. I think that the use of capital punishment reflects a barbaric atmosphere in society which, at least, equals that of the criminal. The philosophy of an 'eye for an eye' is certainly outmoded. Finally, as Chaplain of the Maryland Penitentiary for the past five years, I have had occasion to experience the changed attitudes and constructive processes of men whose death sentences have been commuted. These men will probably some day have the opportunity of re-establishing themselves in society and make a contribution to it. . . ."

VIII.

SUMMARY OF RECENT REPORTS ON CAPITAL PUNISHMENT

At a Committee meeting on December 5, 1961, Mr. Richard H. Lerch agreed to undertake a review of recent reports on the subject of Capital Punishment and to summarize his findings for the assistance of the Committee. Mr. Lerch's report in the form of a letter to the Chairman follows:

"This letter will serve as my summary of recent reports on the subject of capital punishment, as requested by the Committee. With several exceptions which will be noted herein, I have limited this summary to a consideration of the reports made available to us by the States of *Ohio, Pennsylvania, California* and *Massachusetts*. Other states have undoubtedly appointed legislative committees to study the question but their material is not now at hand. Arthur Koestler's *Reflections on Hanging and Capital Punishment*, edited by Grant S. McClellan, The Reference Shelf, Vol. 32, No. 6 (1961) have also been read and considered as well as numerous miscellaneous articles on capital punishment collected by your Committee. The Department of Justice, Bureau of Prisons, has published a Bibliography on Capital Punishment which lists some two hundred (200) books, articles, pamphlets, etc., on the subject. Manifestly any exhaustive review of the available material would not only be a physical impossibility but also, in the writer's opinion, would serve no useful purpose since much of the literature merely represents the author's personal views on the subject.

Ohio. We found the report of the research staff of the Ohio Legislative Service Commission to be one of the most comprehensive. Known as Staff Research Report No. 46, published in January, 1961, it studiously avoids making any recommendations on the retention or abolition of the death penalty. On the other hand, it attempts to present the arguments on both sides of the question as objectively as possible. While the Preface specifically states that any recommendations the Study Committee may propose to the General Assembly in Ohio will be published in a separate report, I believe the average reader of the booklet will find ample material in support of an abolition bill.

The report quotes extensively from the works of Professor Thorsten Sellin prepared for the Model Penal Code project of the American Law Institute. As will be seen, Dr. Sellin, Professor of Sociology at the University of Pennsylvania and President of the International Society of Criminology, is widely recognized as one of the foremost experts in this field. As your Committee is seeking the answer to the question of whether or not capital punishment is a deterrent to crime, we have omitted references to historical and religious considerations touched on in this and the other reports which we reviewed.

On the subject of deterrence, the Staff points out that the advocates of capital punishment have done little research and writing in support of their position. Opponents of the death penalty, on the other hand,

have been active in research and prolific in their writings. The statistical evidence available convinced the staff that such statistics offered no conclusive proof for either side of the question. Its conclusion was summarized as follows:

'Comparisons of crude homicide rates in jurisdictions providing and not providing the death penalty do not produce conclusive statistical proof that the death penalty deters or does not deter homicides. To the extent that such comparisons are accepted as valid, however, the evidence suggests that factors other than the death penalty condition homicide rates both in jurisdictions with the death penalty and in those without it.'

Pennsylvania. In June, 1961, this State published its report of the Joint Legislative Committee on Capital Punishment. Although the Committee's vote was 4 to 1 for abolition (with one abstention), its report states that 'the abolishment of capital punishment is an issue that should be decided by each member of the Senate and House based on his own study of the testimony presented and set forth in this report *and by his own conscience.*' (Emphasis supplied) This report, likewise, quotes extensively from Dr. Sellin's study of the question. The Committee's conclusion is very similar to that reached in Ohio as witness the following:

'Advocates of the death penalty have challenged the claims of the abolitionists that homicide rates are lower in abolition states. Their challenge is not only proper but quite justified. An inspection of the evidence shows that when capital punishment states and abolition states that are similar in population and cultural and social conditions are compared, their homicide rates are much the same, suggesting that it is not the threat of execution or the absence of that threat that is important, but quite different factors. This conclusion has now been generally accepted by those who have given the question the most intensive and serious scientific study, including the British Royal Commission on Capital Punishment, the Special Commission of the Massachusetts Legislature of 1959 and the Ohio Legislative Service Commission, 1961.'

One additional and interesting sidelight on the question of deterrence is referred to as follows:

'Few people who discuss the deterrent effect of the death penalty realize that a criminal exposes himself to a much greater risk of being killed while committing a crime or while being arrested than of being executed. For instance, during the period 1934-54, police in Chicago killed 69 and private citizens killed 261 criminals or suspects involved in homicide, or a total of 330. The electric chair in the Cook County Jail in Chicago took the lives of 45 murderers during the same period.'

Massachusetts. This State's Special Commission's report on the question of the abolition of the death penalty was published in 1959. In essence it agrees with the reports referred to above, that the effect of the threat of capital punishment cannot be substantiated by the available statistics on homicides in this country.

California. In January, 1957, the report of the Subcommittee of the Judiciary Committee on Capital Punishment was filed with the

California Assembly. Here again we have a report which purports to take no stand for or against retention of the death penalty. Despite this, the report summarized its findings concerning the deterrent theory as follows:

'We may now conclude this discussion of the deterrent effect of the death penalty. What has been said is in no way a conclusive argument against that penalty per se. It simply avers from statistical and theoretical considerations that capital punishment is no effective deterrent to crime. There may well be other valid reasons for retaining it.'

As indicated above, no general attempt has or will be made to report on individual books or articles either favoring or opposing the retention of the death penalty. Koestler's *Reflections on Hanging* is one such work often cited by those who would do away with capital punishment. In it Mr. Koestler makes an impassioned plea for abolition and advances many arguments therefor, most of which are outside the scope of this Committee's work. He argues in effect that statistics support abolition but the writer feels that Dr. Sellin's studies to the effect that statistics neither support nor refute the case for abolition are more objectively accurate. On this point Dr. Sellin states:

'Abolitionists are frequently guilty of making assertions that the states that have retained the death penalty have much higher homicide crime rates than the states that have abolished it. They arrive at that conclusion by simply comparing the rates of the two classes of states. This is a reprehensible practice. The conclusion is accurate but the inference is false. Except for Delaware and Rhode Island, the abolition states on our continent all border on Canada, and all the northern states have fairly low rates of homicide compared with the South, where no state has dropped capital punishment. The only fair comparison is one that takes into account regional differences and therefore compares the homicide rates of an abolitionist state with that of its neighbor states.'

The Reference Shelf's volume on *Capital Punishment* is not much more than a compilation of articles both for and against the death penalty. Perhaps the most significant article on the quasi-objective side is one by George Gallup entitled "What the Public Thinks." Mr. Gallup's polls are cited to the effect that, as of March, 1960, some 51% of the American public favored the death penalty for persons convicted of murder. As indicative of a trend this is shown as a sharp drop from a previous poll in November, 1953, which showed that at that time some 68% favored capital punishment.

In closing it is only fair to state that many eminent criminal authorities feel strongly that the death penalty does have a real deterrent effect. Perhaps the most notable among these is J. Edgar Hoover, Director of the Federal Bureau of Investigation."

Since Delaware borders Maryland, the recent abolition and return of capital punishment in that state was felt to greatly concern this Committee. Factors leading to the abolition of capital punishment by Delaware in 1958 appeared in an article by Mr. James V. Bennett in the November 1958 issue of the *American Bar Association Journal*.

**"A HISTORIC MOVE:
DELAWARE ABOLISHES CAPITAL PUNISHMENT**

by James V. Bennett, Director
of the Bureau of Prisons, United States Department of Justice

"On April 2, 1958, Governor J. Caleb Boggs of Delaware signed into law a bill abolishing capital punishment and substituting life imprisonment. Thus Delaware becomes the seventh state to legislate against capital punishment. Michigan had been first in 1847, Rhode Island in 1852, Wisconsin 1853, Minnesota 1911, North Dakota 1915, and Maine in 1876, only to restore it in 1883, and finally abolish it in 1887.

"Nine other states have abolished capital punishment for short periods only to reinstate it, usually after a particularly heinous murder. These states were Iowa, Kansas, Colorado, Washington, Oregon, South Dakota, Tennessee (except for rape), Arizona, and Missouri.

"The Delaware capital punishment bill was first introduced in 1955 by State Senator Elwood F. Melson. However, it was not until June, 1957, by a vote of ten to one, with three not voting, that the Delaware Senate passed the bill. In the Delaware House of Representatives the bill gained support only after the 'Cobin report' was distributed to the delegates. Prepared by Herbert L. Cobin, former chief deputy attorney general, Wilmington lawyer and President of the Delaware Prisoner's Aid Society, the classic report brings together the highlights of evidence produced before the Commissions and Committees which studied the problem in England, Canada, California and Illinois, as well as the comments of noted criminologists.

"This report was followed by a public hearing on March 11 before the entire House of Representatives called by Representative Sherman W. Tribbitt, chairman of the Judiciary Committee. Among the speakers were Dr. Thorsten Sellin, Professor and Chairman of the Department of Sociology at the Wharton School of Business and Finance, University of Pennsylvania; James A. McCafferty, Criminologist for the U. S. Bureau of Prisons, who reported the national downward trend in executions; Trevor Thomas, former executive secretary of the Friends Committee on Legislation of California; Dr. M. A. Tarumianz, state psychiatrist and superintendent of Delaware's Mental health institutions; Rev. Henry N. Herndon, Rector of Calvary Episcopal Church, Wilmington; and Rev. Robert W. Duke of Dover.

"The nine arguments forwarded by Mr. Cobin and essentially supported by the witnesses were:

1. The evidence clearly shows that execution does not act as a deterrent to capital crimes.
2. The serious offenses are committed, except in rare instances, by those suffering from mental disturbances; are impulsive in nature; and are not acts of the 'criminal class.' Of those executed in Delaware, 50 percent had had no previous conviction.
3. When the death sentence is removed as a possible punishment, more convictions are possible with fewer delays.

4. Unequal application of the law takes place because those executed are the poor, the ignorant and the unfortunate without resources.

5. Conviction of the innocent does occur and death makes a miscarriage of justice irrevocable. Human judgment cannot be infallible.

6. The state sets a bad example when it takes a life. Imitative crimes and murder are stimulated by executions.

7. Legally taking a life is useless and demoralizing to the general public. It is also demoralizing to the public officials who, dedicated to rehabilitating individuals, must callously put a man to death. The effect upon fellow prisoners can be imagined.

8. A trial where a life may be at stake is highly sensationalized, adversely affects the administration of justice, and is bad for the community.

9. Society is amply protected by a sentence of life imprisonment.

"Impressed by this cogent evidence, the Delaware House weighed the bill from March 11 to March 24, and passed it by a vote of eighteen to eleven.

"Disturbed by details of the bill, but not the principle, Attorney General Joseph Craven urged the Governor not to sign the bill. He indicated that the bill made no distinction between the release from prison of first and second degree murderers who receive 'life' sentences. Also he supported retaining the death penalty for murderers convicted of a second homicide in a prison break. Another objection was the belief that any repeal of the capital punishment law would result in a heavier murder trial list or more frequent state acceptance of a guilty plea of manslaughter.

"Nevertheless the attorney general did favor abolishing capital punishment on two grounds: humane consideration and the fact that juries are disinclined to convict defendants where the punishment is death without recommendation of mercy.

"Governor J. Caleb Boggs in signing the historic bill appears to have had convictions similar to those appearing in the closing paragraph of a Wilmington Morning News editorial: Now, we believe, the people and the state are ready for this historic step. But the innovation will still be on trial. One particularly revolting crime during the next few years, or a wave of the sort of crimes to which the death penalty formerly applied, could bring an outcry for the restoration of capital punishment. Barring this sort of mischance, we are confident that in Delaware as elsewhere, experience with the abolition of the death penalty will bring the settled conviction that it was the right thing to do."

On December 18, 1961, the Delaware Legislature restored the death penalty in that State. The bill re-establishing capital punishment was vetoed by the Governor of Delaware, but the Legislature overrode his veto. In view of the possible relevance of this action in Delaware, Mr. Julius G. Maurer requested the cooperation of Colonel Carey Jarman, Superintendent of the Maryland State Police, in securing comments of Colonel John P. Ferguson, Superintendent of the Delaware State Police, as to the reason for Delaware reversing its decision to abolish capital punishment. Colonel Ferguson's letter follows:

"DELAWARE STATE POLICE

Dover, Delaware

January 17, 1962

Colonel Carey Jarman
Superintendent
Maryland State Police
Pikesville 8, Maryland
Dear Colonel Jarman:

The abolition of capital punishment in Delaware was brought about after legislative hearings, lengthy debates and presentation of studies prepared in jurisdictions wherein such legislation had been enacted.

The basis for this legislation was based primarily on the pretext that capital punishment did not deter or reduce capital crimes.

On June 10, 1961, a brutal murder was committed in Georgetown, Delaware, which brought demands for the return of capital punishment.

Only nineteen weeks elapsed when on October 31, 1961, a double murder was committed near Laurel, Delaware, that prompted introduction of legislation to restore capital punishment. After passage of the legislation by the General Assembly, Governor Carvel vetoed the measure. However, his veto was overridden and capital punishment was restored.

Shortly after capital punishment was repealed in 1958, a murder occurred in a state institution of this state in which a female employee was slain with a shotgun by her boyfriend. We have in our files as a matter of record, a letter from the assailant to his legal wife which was intercepted following his incarceration. In the letter he stated that the reason he killed the girl was because he knew he could only get fifteen years and then would be out and be with his wife and children.

This department did not enter into any discussion upon the legislative floor, either pro or con. However, as police officers we have strong feelings that statutory provisions for capital punishment do deter and reduce certain types of homicides.

If I can be of further service to you, please feel free to call upon me.

Sincerely yours,

(signed) JOHN P. FERGUSON
Colonel John P. Ferguson,
Superintendent."

IX.

SUMMARY OF ARGUMENTS FOR AND AGAINST THE DEATH PENALTY

Correspondence received by the Committee was carefully examined for arguments for and against the death penalty. These arguments parallel those generally advanced on this subject. Briefly, the principal arguments are as follows:

To retain Capital Punishment:

1. Justice requires punishment commensurate with the crime.
2. The threat of capital punishment deters some individuals from committing capital crimes. This protects society.
3. Policemen need it for their safety.
4. The public wants it.

To abolish Capital Punishment:

1. The death penalty is used too often for the indigent and members of the Negro race.
2. It does not act as a deterrent according to statistics.
3. It can result in killing an innocent man.
4. It impedes justice by emotional trials and lengthy appeals which divert attention from the over-all crime problem.

In addition to the preceding, many variations and rebuttal arguments appear for both sides. However, anyone bothering to make even a casual examination soon discovers the paucity of written material in favor of capital punishment. At the same time, the abolitionists have no one engaged in law enforcement to match the prestige of J. Edgar Hoover, Director of the Federal Bureau of Investigation, who has become the leading American spokesman in favor of capital punishment.

A final aspect deserving consideration is the argument of a middle ground so well espoused by James V. Bennett, Director, Federal Bureau of Prisons as quoted by the Prisoners Aid Association of Maryland in an article written for the North American Newspaper Alliance.

"I believe that the deterrent effect of the death penalty would be more effectively realized if its use were put on a more equitable and judicious basis, and if some way could be found for minimizing the almost endless litigation that surrounds some of these cases. The Chessman case was kept going in the courts for twelve years.

"Unquestionably there are some crimes that are so heinous, so outrageous, that society recoils in such horror that execution is the only means of expressing it. The death penalty, in my opinion, should be retained for such offenses as murder for hire, murder involving a law enforcement officer engaged in his duties, the kidnapping and injury of a child, treason, the bombing of an airplane,

and the bombing of innocent people in a school building or a church. For all other capital offenses now on the statute books, I would make the penalty life imprisonment.

"For the death penalty even under the circumstances I have mentioned I would require the concurrence of the judge and the jury. I would require a separate jury trial on the issue of sentence, as divorced from conviction. I would provide for an automatic psychiatric examination of the defendant prior to sentence, and I would provide for an automatic appeal. With these safeguards we could assure ourselves that the death sentence would not be lightly nor indiscriminately used.

"This approach would get rid of the justifiable objections to capital punishment. Moreover and most importantly, we would have a reasonable outlet for the primitive and instinctive feelings of retribution from which few persons can free themselves when considering how to deal with the offender. Then too we could meet the tests that civilization demands of us in the treatment of all who come into conflict with the law."

Another moderate view was expressed in April 1961 by an advisory committee of the American Law Institute which offered as part of its proposed Model Penal Code, Section 201.6 dealing with the death sentence. A review of those provisions discloses some interesting and parallel recommendations to the moderate view expressed earlier.

In essence, the death sentence could be imposed only for murder, by those 18 years of age and over, whose crime was accompanied by at least one aggravating circumstance, with no sufficiently substantial mitigating circumstances present to call for leniency.

The aggravating circumstances specified are:

(a) The murder was committed by a convict under sentence of imprisonment.

(b) The defendant was previously convicted of another murder or of a felony involving the use or threat of violence to the person.

(c) At the time the murder was committed the defendant also committed another murder.

(d) The defendant knowingly created a great risk of death to many persons.

(e) The murder was committed while the defendant was engaged in or was an accomplice in the commission of, or the attempt to commit, or flight after committing or attempting to commit robbery, rape by force or intimidation, arson, burglary, or kidnapping.

(f) The murder was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from lawful custody.

(g) The murder was committed for hire or pecuniary gain.

(h) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity.

Mitigating circumstances listed are:

(a) The defendant has no history of prior criminal activity.

(b) The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's homicidal conduct or consented to the homicidal act.

(d) The murder was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct.

(e) The defendant was an accomplice in a murder committed by another person and his participation in the homicidal act was relatively minor.

(f) The defendant acted under duress or under the domination of another person.

(g) At the time of the murder, the capacity of the defendant to appreciate the criminality (wrongfulness) of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication.

(h) The youth of the defendant at the time of the crime.

X.

SUMMARY OF FINDINGS OF THE COMMITTEE

1. In the 26-year period, 1936-1961 in Maryland, 59 percent of those sentenced to death for murder were executed and 51 percent of those sentenced to die for rape were executed.
2. Executions during the years 1936-1950 were far higher than in the years 1951-1961.
3. Baltimore City and Baltimore County which comprise 46 percent of Maryland's population accounted for 54 percent of all prisoners sentenced to death from 1936 through 1961.
4. As of December 31, 1961, ten counties had not sentenced a prisoner to death since 1936:

Calvert	Kent
Caroline	Queen Anne's
Charles	St. Mary's
Garrett	Somerset
Harford	Washington

5. Since Maryland centralized executions in the Maryland Penitentiary for all crimes committed on or after January 1, 1923, a total of 79 men have been executed as of September 1, 1962:

<i>Crime</i>	<i>White</i>	<i>Negro</i>	<i>Total</i>
Rape	6	21	27
Murder	11	41	52
Total	17	62	79

6. As of December 31, 1961, twenty men were in Death Row at the Maryland Penitentiary under sentence of death.
7. There is evidence that defendants sentenced to death who were born in Maryland are executed less often than those born elsewhere.
8. The unmarried prisoner and the Negro has had a greater chance of execution upon sentence of death than the married offender and the white offender in the period 1936-1961.
9. The highest proportion of offenders executed where the motive for the crime could be determined were those who killed during a robbery or burglary.
10. Exactly half of the offenders committed to Death Row in the period 1936-1961 used a gun to either kill or threaten their victims; thirty-seven percent used a pistol or revolver.
11. Maryland's experience in executions in the last 26 years refutes the claim that most persons sentenced to death are first offenders.
12. Of 111 offenders charged with murder in Baltimore City in 1960, three were sentenced to death.

13. Fourteen percent of offenders sentenced to terms of life imprisonment in the Maryland Penitentiary in the period 1936-1961 have been paroled.
14. 1458 Maryland citizens corresponded with this Committee on the issue of capital punishment. Fifty-three percent favored its retention and 47 percent opposed it.
15. Anyone bothering to make a casual examination soon discovers the paucity of written material in favor of capital punishment. At the same time, the abolitionists have no one engaged in law enforcement to match the prestige of J. Edgar Hoover, Director of the FBI, who has become the leading American spokesman in favor of capital punishment.
16. Delaware State Police reported an incident following the repeal of capital punishment by that state in 1958 wherein an offender claimed he had not been deterred from murder by the threat of imprisonment.
17. One Maryland author believes rules are stretched by the U. S. Supreme Court and some "bad law" is made there because doubts are resolved in favor of those sentenced to death.
18. Research disclosed an historic inquiry by New York State in 1886 which studied 34 methods of executions before deciding in favor of electrocution with the body to be held by the state for dissection or burial in quick-lime.

XI.

STATEMENT BY THE COMMITTEE

Following intensive review of all the material relating to capital punishment available to it and recorded in the foregoing report, the Committee settled upon six proposals which seemed to represent current attitudes concerning the death penalty. Committee members were asked to vote upon each proposal in the order of their preference unless a proposal was entirely unacceptable.

The majority of the Committee members voted five to two for abolishing capital punishment in Maryland. Two members voted in favor of no change in present legislation. The entire seven voted against increasing the number of capital crimes in Maryland.

PREFERENCE OF PROPOSALS IN ORDER OF 1ST, 2ND, 3RD CHOICE

<i>Proposals Considered</i>	<i>Choice by Votes</i>			
	<i>1st</i>	<i>2nd</i>	<i>3rd</i>	<i>Total</i>
Advocate unrestricted abolition of capital punishment in Maryland	2	3	0	5
Advocate a specified test period without capital punishment in Maryland	1	2	2	5
Advocate substitution of life imprisonment without parole for death sentence in present laws except for those who would be convicted of a capital crime perpetrated while under sentence of life imprisonment	2	0	3	5
Advocate no change in present laws relating to capital punishment	2	0	0	2

ENTIRE VOTE OF THE COMMITTEE

<i>Proposals</i>	<i>How Members voted By 1st through 5th Choice</i>						
	I	II	III	IV	V	VI	VII
1. No change in laws	5	5	*	5	1	1	*
2. Increase capital crimes	*	*	*	*	*	*	*
3. Decrease capital crimes	4	4	4	4	*	*	*
4. Test period without capital punishment	2	2	3	1	*	*	3
5. Complete abolition	1	1	2	2	*	*	2
6. Life term—no parole, etc.	3	3	1	3	*	*	1

* Not Acceptable

RECOMMENDATION OF MAJORITY

A 5-2 majority of the Capital Punishment Committee believes the principle of Capital Punishment should no longer be upheld in Maryland. However, the only unavoidable conclusion in this issue is that it has no inescapable single solution. While making a majority judgment in favor of abolishing the death penalty, the majority recognizes it presents a further problem to be resolved: how and when to bring about this recommended change?

None of our states (excluding territories which later became states) has abandoned the death penalty on a permanent basis since North Dakota did in 1915. In view of the almost equal division of opinion on this issue, an abrupt change by Maryland would not successfully settle the issue any more than it has in other states since 1915. Based on recent experience in Delaware, there is little doubt that if the death penalty were suddenly dropped in Maryland it would create a persistent emotional issue.

Therefore, it is recommended that the Legislature accept the principle of abolition as a goal and adopt a plan for the gradual removal of capital punishment in our State. The first step would be to restrict the death penalty to *allow* its use only for the following offenses:

First degree murder of a law enforcement officer or a prison employee while acting in line of official duty.

Felony murders: that is, murders committed in perpetration of burglary, arson, rape or robbery.

After this reduction in the use of capital punishment has had a fair opportunity to permit its evaluation, another detailed study should be made and presented to the Legislative Council for further action toward complete abolishment of capital punishment.

Respectfully submitted,

Harry A. Cole
Ralph G. Murdy, *Chairman*
Standley L. Richardson
Richard T. Rombro
Charles M. See

RECOMMENDATION OF MINORITY

The undersigned herewith submit their minority report to be attached to the report of the Committee on Capital Punishment.

The undersigned do not feel that any change should be made in the laws relating to capital punishment and as reasons for the minority view wish to state the following:

1. There must be some effective deterrent to those who would commit murder in the State of Maryland. Law abiding citizens and police officers who are required to risk their lives in the prevention of crime are those who suffer in the absence of such a deterrent.

2. A review of the statistical evidence available convinces us that there is no proof, as suggested by the majority, that the existence of capital punishment laws does not act as a deterrent to the commission of murders, rapes, etc.

3. The experience of our sister state, Delaware, supports the view of the minority. That state abolished capital punishment and as soon as two serious murders occurred, public outcry forced the quick reinstatement of capital punishment in Delaware.

4. The present legal procedures in this State are ample protection for the innocent person wrongly charged with a capital offense. In serious cases, this State assumes the expense of trial and appeal. The record shows that the Court of Appeals of Maryland will not hesitate to reverse a conviction if the accused did not receive a fair and impartial trial in the lower court. The accused's rights are further protected by the proceedings provided for in the Post-Conviction Procedure Act. While the decision of the lower court in such cases is not appealable, the accused may apply to the Court of Appeals by petition for a review. There is further available to the accused, the remedy of habeas corpus which can be and is filed in either the State or Federal Court. A recent appellate case ordered the release of a prisoner on a finding that he did not have proper and adequate legal representation at his trial in the Criminal Court of Baltimore City.

5. The extremely rare, if not now presently non-existent, cases of innocent men who are executed does not justify the apparent sympathy which the majority would seem to extend to those rapists and murderers who indeed should incur the supreme penalty.

Respectfully submitted,

Julius G. Maurer
Richard H. Lerch

**APPENDIX TO REPORT OF THE COMMITTEE ON
CAPITAL PUNISHMENT**

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DETAILED ANALYSIS OF PRISONERS SENTENCED TO DEATH IN MARYLAND

By James A. McCafferty

A. TIME

*Dispositions (A-1)**

In the 26-year period, 1936-1961 a total of 102 prisoners (101 males and one female) were disposed of either by execution, commutation to life or by trial and two committed suicide. Another 20 were in Death Row at the Maryland State Penitentiary on December 31, 1961.

For the 102 disposed of 61 were charged with murder and 41 for rape. Of the 102, 57 or 55.9 percent were executed, 34 or one-third (including the one female) were commuted to life, nine received a new trial and two committed suicide. Of the 61 charged with murder, 36 or 59.0 percent were executed, 19 or 31.1 percent were commuted to life, four received a new trial and two committed suicide. For the 41 charged with rape, 21 or 51.2 percent were executed, 15 or 36.6 percent were commuted to life and the remaining 5 were granted new trials.

Comment

For each 10 cases disposed of 6 were convicted of murder and 4 of rape. Slightly more persons charged with murder were executed (59.0 percent) in contrast to the proportion of those executed who were convicted of rape (51.2 percent). The proportion of murderers commuted from a death sentence to serve a life sentence was slightly lower, 31.1 percent, than those convicted of rape, 36.6 percent.

Figure 1

Offense and Method of Disposition of Prisoners Received into Death Row:
Maryland State Penitentiary
1936-1961

(All were male except one female murderer commuted to life)

Method of Disposition	All	Murder	Rape
<i>Total Number</i>	122	71	51
<i>Disposed of</i>	102	61	41
Executed	57	36	21
Committed to life	34	19	15
New Trial	9	4	5
Suicide	2	2	....
<i>Under death sentence; 12-31-61</i>	20	10	10

Source: Table A-1

* Refers to table at close of paper.

Number per year (A-1)

During the 26-year period there was an average of 4 dispositions a year. The number of dispositions ranged from a high of eight in both 1943 and 1947 to none in 1960. In the first 15 years of the 26-year period there were 72 dispositions in contrast to 30 in the last 11 years (1951-1961). The number of executions was far higher in the first 15 years when a total of fifty prisoners was executed than in the last eleven years when only seven were executed.

Comment

Not only has there been a dropping off in dispositions, but the number of executions has also dropped.

FIGURE 2

OFFENSE, YEAR OF AND METHOD OF DISPOSITION OF PRISONERS RECEIVED INTO DEATH ROW: MARYLAND STATE PENITENTIARY: 1936-1961

Offense and Year	All Prisoners	Executed	Commuted to life	New Trial	Suicide
Total	102	57	34	9	2
Murder	61	36	19	4	2
Rape	41	21	15	5	....
1936-1940	16	11	5	....	....
Murder	11	7	4	....	....
Rape	5	4	1	....	....
1941-1945	29	24	2	3	....
Murder	18	15	2	1	....
Rape	11	9	....	2	....
1946-1950	27	15	8	2	2
Murder	13	7	2	2	2
Rape	14	8	6	....	....
1951-1955	16	3	12	1	....
Murder	11	3	7	1	....
Rape	5	....	5	....	....
1956-1960	13	3	7	3	....
Murder	7	3	4	....	....
Rape	6	....	3	3	....
1961	1	1	....	....	....
Murder	1	1	....	....	....

Source: Table: A-1

County (A-2)

Maryland has 23 counties and one City jurisdiction, Baltimore. Of the 23 counties, 10 did not make any commitments to Death Row at the Maryland State Penitentiary. Baltimore City, with 59 commitments and the 7 from Baltimore County, accounted for over half of the commitments during the 26-year period (54.1 percent). These two jurisdictions comprised 46.2 percent of Maryland's population in 1960.²

In those counties where the sentence of death was imposed, such sentences were not always carried out. Sentences imposed for murder were carried out more times than those for rape. In Carroll (1), Montgomery (1), Prince George's (1) and Worcester (4) all prisoners

² U. S. Bureau of the Census, U. S. Census of the Population, 1960, Pc (1) 22a, Maryland Tables 1 and 7.

committed for murder were executed: No county, except Cecil (2), Dorchester (3) and Talbot (2), which imposed the death sentence for rape imposed the sentence for all cases.

The passing of the death sentence did not lead to the actual imposition in two counties so that for these jurisdictions no death sentence has been imposed since 1936 for the cited offenses. In Howard County, 2 were sentenced for murder (1 of these commuted to life sentence and 1 received a new trial) and 1 was sentenced for rape and commuted to life. In Talbot County, 2 were sentenced for murder and were commuted to life imprisonment.

Comment

In Maryland the use of the death sentence varies widely. Ten counties have not sentenced a prisoner to death since 1936. Two counties, which passed death sentences, have not had an execution for specific offenses. Death sentences for murderers proportionately are carried out more often than death sentences for rapists.

Baltimore City, Baltimore County, Prince George's, Anne Arundel and Montgomery Counties accounted for a majority of the death sentences for rape.

FIGURE 3

OFFENSE, COUNTY OF COMMITMENT, AND METHOD OF DISPOSITION OF PRISONERS RECEIVED INTO DEATH ROW: MARYLAND STATE PENITENTIARY: 1936-1961

County and Offense	All Prisoners	Executed	Commuted to life	New Trial (a)	Suicide	Under Sentence of death 12-31-61
Total	122	57	34	9	2	20
Murder	71	36	19	4	2	10
Rape	51	21	15	5	....	10
ALLEGANY						
Murder	3	2	1	....	....	....
ANNE ARUNDEL						
Murder	8	2	3	....	....	3
Rape	4	2	2	....	....	....
BALTIMORE CITY						
Murder	37	18	10	3	2	4
Rape	22	6	6	3	....	7
BALTIMORE COUNTY						
Murder	2	1	....	....	....	1
Rape	5	1	3	1	....	....
CARROLL						
Murder	1	1	....	....	....	....
CECIL						
Murder	1	....	....	....	....	1
Rape	2	2	....	....	....	....
DORCHESTER						
Murder	5	4	....	....	....	(b)1
Rape	3	3	....	....	....	....
FREDERICK						
Murder	2	1	(f)1	....	....	....
HOWARD						
Murder	2	....	1	1	....	....
Rape	1	....	1	....	....	....
MONTGOMERY						
Murder	1	1	....	....	....	....
Rape	7	2	1	1	....	3
PRINCE GEORGE'S						
Murder	1	1	....	....	....	....
Rape	5	3	2	....	....	....
TALBOT						
Murder	2	....	2	....	....	....
Rape	2	2	....	....	....	....
WICOMICO						
Murder	2	1	1	....	....	....
WORCESTER						
Murder	4	4	....	....	....	....

(a) Baltimore City: All received life sentences in new trial except one retried for rape was acquitted. Baltimore County: Died of cancer before retrial. Howard: Life sentence. Montgomery: Change of venue to Howard, sentenced to 20 years.

(b) Dorchester: Tried twice in Dorchester, change of venue to Talbot County for third new trial (all sentences were to death).

(f) Female.

Source: Table A-2

Elapsed time (A-3)

Elapsed time, which is the period between the date the prisoner was sentenced to death and the day of disposition, was shorter for those executed than those commuted to life or granted a new trial. Average days elapsed time for those executed numbered 220 whereas for those commuted to life imprisonment average days numbered 388, and for those granted a new trial, the average days elapsed were 249.

For prisoners committed to Death Row for rape, those executed had the lowest average days (158) of any of the types of disposition.

For the 57 prisoners who were executed half (28) were disposed of in four months or less. For those commuted to life, only 2 out of 34 were commuted in the period five months and under. For those granted a new trial, none received any grants in the six-month period following sentence to death. For all 9 of these the new trials were granted in the seven to eleven month period following imposition of the death sentence.

Comment

Prisoners executed have the shortest elapsed time when compared to those commuted to life or granted a new trial. For those executed for rape the elapsed time is shortest of all.

B. THE PRISONER

Place of Birth (B-1)

Slightly more than half of the prisoners sentenced to death were born in Maryland (63). North Carolina accounted for 15, Virginia 11, South Carolina 6, District of Columbia 5, Florida, Ohio and Texas, 3 each, New York and West Virginia, 2 each, and Alabama, Arkansas, Delaware, Georgia, New Hampshire, Oklahoma, Pennsylvania and Tennessee, 1 each. Only 1 of the 122 prisoners was foreign born—Canada.

Of the 102 prisoners whose sentences were *disposed of* during the 26-year period, 52 were born in Maryland, and of these 25 were executed, 19 had their sentences commuted to life, 7 received a new trial, and 1 committed suicide. Stated another way, of those born in Maryland who were received and disposed of 48.1 percent were executed. Of the 50 born outside of the State (including Canada) 32 or 64.0 percent were executed, 15 were commuted to life, 2 received new trials and 1 committed suicide. (See Table B-1)

Of 34 native Marylanders who committed murder and were sentenced to death, half (17) were executed. Another 12 were commuted to life, 4 received new trials and 1 committed suicide. For those sentenced to death for rape (18), a total of 8 were executed, 7 were commuted to life and 3 received a new trial.

Persons born elsewhere who were sentenced to death for murder (27) had a higher proportion (70.4 percent) of their sentences actually imposed (19 executed), with the balance disposed of by commutation (7) and 1 by suicide. Interestingly, none received a new trial. For 23 sentenced to death for rape, 13 or 56.5 percent were executed, 8 were commuted to life, and 2 received a new trial.

Comment

Though there is no measurement of the time spent in Maryland by persons born in Maryland or elsewhere there is evidence that those born in Maryland proportionately are executed less often than those born elsewhere whether the offense is murder or rape.

Marital Status (B-2)

Over half (53.3 percent) of the prisoners sentenced to death were single. Thirty-two percent were reported to be married. Five were separated, three divorced, and eight were widowed (all killed their spouses) and for two the marital status was unknown.

For the 57 prisoners executed, 33 or 57.9 percent were single, and 19 or 33.3 percent were married, 1 was separated and 1 was divorced. The remaining 3 were widowers.

For those commuted to life (34) a total of 19 prisoners was reported to be single (55.9 percent), 10 were married, 1 was separated and 3 (including one female) were widowed. For one prisoner commuted to life his marital status was unknown.

For the 9 prisoners granted a new trial, only 2 were single, 6 were married and 1 was widowed.

Looking at the data another way, among the 34 single persons disposed of for murder, 22 or 64.7 percent were executed and 10 or 29.4 percent were commuted to life, 1 received a new trial and 1 committed suicide.

For the 17 married persons disposed of for murder, 10 or 58.8 percent were executed, and 4 were commuted to life, 2 were given a new trial and 1 committed suicide.

For the 21 single prisoners sentenced to death for rape who were disposed of 11 or 52.4 percent were executed, nine were commuted to life and 1 was granted a new trial. For those reported to be married (19 disposed of), 9 were executed (47.4 percent), 6 had their sentence commuted and 4 were granted new trials.

Comment

About 6 out of 10 prisoners executed were single (57.9 percent). For the offense of murder 64.7 percent were single and for rape, 52.4 percent were single.

About 3 out of 10 prisoners were reported to be married at the time of their commitment under the sentence of death. Among 17 married prisoners disposed of for murder, 58.8 percent were executed. For the 19 married prisoners convicted of rape (disposed of only) 9 or 47.4 percent were executed.

Proportionately speaking the single prisoner sentenced to death for murder or rape had somewhat a greater chance to be executed than the married offender.

Age at Time of Disposition (B-3)

For all prisoners including those under sentence of death on December 31, 1961, the median age was 27.8 years. For murderers the median was 28.9 years and for the rapists, 25.5 years.

Prisoners executed were slightly older than those commuted to life imprisonment. For the 57 executed the median age was 27.3 years. For murderers executed the median was 28.9 and for the rapists, 25.8 years.

Those commuted had a median age of 25.0 years, murderers, 27.5 years and rapists, 23.6 years.

The youngest prisoner to be executed for murder was an 18 year old, the oldest was 54. The youngest executed for rape were two 19-year olds. Other persons aged 19 and under and their dispositions were: For murder, one 18-year old; for rape, one 16- and one 17-year old had their death sentences commuted to life; for rape one 19-year old was granted a new trial.

For the 25 white prisoners received into the Death Row at Maryland State Penitentiary, 10 were executed (7 for murder and 3 for rape); 8 were commuted to life (4 for murder and 4 for rape), 1 rapist was granted a new trial, 1 committed suicide and on December 31, 1961, 5 prisoners (4 for murder and 1 for rape) were under sentence of death.

For the 97 Negro prisoners received into Death Row, 47 were executed. The number executed for murder was 29; for rape 18. Commutations to life imprisonment accounted for 26 prisoners, 15 having committed murder and 11 having committed rape.

Eight Negro prisoners were granted new trials (4 for murder and 4 for rape). One Negro committed suicide. At the close of 1961 there were 15 Negroes under a sentence of death, 6 for murder and 9 for rape.

Comment

Looking at the age and race distribution another way, for every 10 prisoners received into Death Row 2 were white and 8 were Negro. Though white prisoners generally had higher median ages, the Negroes with their lower median ages tended to reduce the over-all median ages of prisoners disposed of.

Turning to the method of disposition and race, of the 20 white prisoners, 10 were executed, 8 were commuted to life, 1 received a new trial and 1 committed suicide. For the 72 Negro prisoners 47 or 65.3 percent were executed, 26 or 36.1 percent were commuted to life, 8 were granted a new trial and 1 committed suicide.

Executions for white murderers numbered 7 for the 12 disposed of. For 8 white rapists disposed of there were 3 executions. For 49 Negro murderers, 29 or 59.2 percent were executed. For 33 Negroes sentenced to death for rape who were disposed of, 18 or 54.5 percent were executed.

Last School Grade Completed

For the 122 admitted to Death Row, 7 were reported to have had no schooling or were illiterate, 43 or 37.4 percent had completed 1 or more of the primary grades, one through six, and 64 or 55.6 percent had completed 1 or more of the secondary grades, seven through twelve. It is to be noted that only 7 completed high school and of this number 1 completed a year of college. Last grade completed was not available for 7 prisoners.

Excluding the illiterates and unknowns, the median grade completed for all admissions was 7.5, the same for murderers and for those committed for rape.

For the 57 prisoners executed 6 were reported to have had no school or were illiterate. Last grade was unknown for 2 others. For the 49 for whom grade was known the median grade completed was 7.0, for 31 murderers, the median grade was 7.5 and for the 18 rapists the median grade was 5.3.

For the 29 commuted to life for whom the last grade completed was known, the median grade completed was 7.0.

Comment

There is some evidence that for prisoners executed the educational background is not as high as those commuted when those prisoners who received no schooling or were regarded to be illiterate are accounted for. When contrasted to the Maryland population aged 25 years and over, the prisoners sentenced to death fall short of the median school years completed by the Maryland population as reported in the 1960 Census of Population. In 1960, for Maryland as a whole, the median school year completed was 10.4. For the white population it was 11.0 years, for the non-white 8.1 years.³

Major Occupation; (B-5)

Because of the varied nature of the occupations reported for 122 prisoners received into Death Row, these appear in detail in Table B-5. A total of 58 or 47.5 percent were classified as laborers. Twenty or 16.4 percent were engaged in the trades, 13 in farming, 7 in service occupations and 24 were classified in "Other" occupations.

For the 57 executed, 32 or 56.1 percent were laborers, 6 were in the trades, 9 were classified under farming, 3 under service and 7 under other.

For the 34 commuted to life, 16 or 47.1 percent were laborers, 8 were in the trades, only 1 was classified under farming, 3 under service occupations and 6 under other.

Comment

Laborers predominated among those received into Death Row. Among those executed, laborers accounted for about 6 out of 10. For those commuted to life the ratio of laborers was 5 out of 10.

C. THE OFFENSE

Motive for Instant Offense (C-1)

The problem of determining the motive of the offender is not simple and at best may be only a guess especially since many years have elapsed between the offense and the determination of the motive for the purposes of this study. However, given a list of various motives for committing an offense it is possible to categorize them for study purposes.

For the 122 prisoners received into Death Row, the motive was unknown or unclear for 29 or 23.8 percent. The unknown or unclear motive was almost evenly divided between murderers (16) and rapists (13). (The unknowns among the rapists had a greater effect since the 13 represented over one-fourth of these admissions.)

³ U. S. Bureau of the Census, U. S. Census of the Population, 1960, Pc (1) 22c, Maryland, table 47.

For the 55 murderers whose motive was reported, 32 had committed murder during a robbery, 8 during a domestic quarrel, 7 during an altercation, 3 during a burglary, 3 during an escape from custody and 2 because of jealousy.

The three who killed during a burglary were executed. For the 26 who killed during a robbery and were disposed of (6 remained at the close of 1961) 17 were executed, 7 were commuted to life and 2 received a new trial.

For the 7 disposed of having committed murder during a domestic quarrel, 3 were executed and 4 commuted to life. Five of seven disposed of for killing during an altercation were executed and 2 were commuted. Both prisoners who killed out of jealousy were commuted.

Among the 38 prisoners who committed rape and for whom the motive was reported, 24 indicated that the motive was sexual gratification. Fourteen carried out a rape during a burglary or robbery.

Comment

The matter of motives for carrying out an offense are difficult to ascertain. At best this study shows that killing during a robbery or burglary where a capital penalty has been imposed results in execution in proportionately more cases than executions for rape regardless of the motive. Thus, whereas there were 29 prisoners disposed of for murder during a robbery or burglary and of this group 20 or 69.0 percent were executed, the number of rapists disposed of totaled 35 and of this group 18 or 51.4 percent were executed.

Caution needs to be used in interpreting these figures since in 29 cases the motive was unknown or unclear.

Victim's Relationship to Defendant (C-2)

Studies of relationship of victim to the offender show that in cases of murder the victim and offender are acquainted. For example, Wolfgang found among 550 known interpersonal relationships only 12.2 percent of the relationships could be classified as "strangers."⁴ Murdy in a study of 101 murders noted the proportion of "strangers" was 25.7.⁵ Though higher than Wolfgang's study it is significant that in a study of the relationships between the murderer and his victim, in the majority of the cases both know each other.

Taking the 71 murderers received into Death Row and excluding the 11 for whom the relationship to the offender was unknown, 36 or 60.0 percent were total strangers. For those committed for rape, all but 3 were strangers.

To some extent the "Strangership" phenomenon is related to the "motive of the offense" previously discussed. It is reasonable to assume that persons involved in a murder during a robbery or burglary probably do not know their victim, therefore, those murderers who ultimately are committed to Death Row for such an offense proportionately represent far more of this particular type of murder than those in the community.

⁴ Wolfgang, Marvin E., *Patterns in Criminal Homicide*, Philadelphia; University of Pennsylvania Press, 1958, table 24, p. 207.

⁵ Appendix E, Table 8.

Comment

Stated another way, sixty percent of those received into Death Row for murder did not know their victim. This was more than twice the proportion of Murdy's study which showed that 25 percent of the murderers in the community killed strangers.

The evidence here is that there may be mitigating circumstances where offender and victim know each other, especially in cases where the question is raised that the intended victim actually became the assailant in a long-term controversy. However, in those instances where the victim is a stranger, especially in a holdup or burglary and possibly is unable to defend himself the courts more often impose the supreme penalty.

Of those committed to Death Row for rape, practically none knew their victim.

Weapon Used in Carrying Out Offense (C-3)

For 30 of the 122 commitments to Death Row, the weapon used in carrying out the offense was unknown. For the remaining 92, 9 used no weapon except threats; 46 used a handgun (34) or a rifle or shotgun (12); 12 used a knife and 4 used a cutting instrument such as an axe; and a form of assault with either a weapon (9) or bodily (12) was carried out in 21 cases.

For the 31 disposed of who committed murder by shooting, 17 were executed, 12 commuted to life, 1 received a new trial and 1 committed suicide. For the 10 who used a cutting instrument, 6 were executed, 3 were commuted including one female, and 1 was granted a new trial. For the 7 who committed a mortal assault either with an instrument or bodily and were disposed of—5 were executed, and 2 were commuted to life.

Weapons were significantly noted in the rape cases. For the 34 offenders sentenced to death for rape who were disposed of, and for whom the weapon was known, 9 used no weapon (3 of these were executed), 8 used a gun (4 of these were executed), 5 used a knife (2 were executed), and 12 assaulted their victim with an instrument (club, stones, etc.) or bodily (8 were executed).

Comment

Where the weapon is known, guns play an important part as the instrument for murder; however, less so for the person committed to Death Row for rape.

Place Where Crime Occurred (C-4)

Of the 122 cases committed to Death Row, the place the crime occurred was unknown for 27 individuals. For the remaining 95, over half or 55 of the offenses occurred indoors, 27 of these in the victim's home, 13 in the victim's place of business and the remaining indoors elsewhere.

Twenty-seven occurred outdoors with 11 on the highway, 5 in an alley, 7 in woods and parks, and 4 outdoors elsewhere. In 13 instances the crime occurred in a vehicle.

Of the 48 prisoners who committed their crimes indoors and were disposed of, 28 were executed, 18 were commuted to life and 2 received new trials.

Of the 23 offenders who committed their crimes outdoors and were disposed of, 15 were executed, 6 were commuted to life, 1 was granted a new trial and 1 committed suicide.

For the 12 who committed their crimes in a vehicle and were disposed of, 3 were executed, 8 were commuted and one was granted a new trial.

Comment

The place a crime occurs has much to do with the offender's motive. Crimes indoors include killings in connection with robbery and burglary, though the highway and public places provide such opportunity for robbery. Statistics on place of occurrence add little to this study.

D. PRIOR RECORD OF THE PRISONER

Prior Arrests (D-1)

For the 122 prisoners received into Death Row, the prior arrest record was known for 112 individuals. For this group 28 or 25 percent had had no prior arrests. Seventy-five percent or 84 had had 1 or more arrests with a median of 2 arrests each. One prisoner had a total of 29 arrests.

For both groups committed for murder or rape, a quarter did not have any prior arrests.

Among those executed for whom prior arrest information was available, 26.9 percent had no prior arrest record. For those executed for murder, the percentage was 24.2 with no prior arrest record. For those executed for rape, 31.6 percent had no prior arrest record.

Turning to those commuted to life for whom the prior arrest record was available, 24.2 percent had no prior record. For murderers the comparable figure was 22.2 percent; for those committed for rape, 26.7 percent.

Comment

The proportion of prisoners who did not have a prior arrest record did not vary significantly by type of disposition. For those disposed of (24) who did not have an arrest record (14), 58.3 percent were executed. For the 68 disposed of with an arrest record, 55.9 percent were executed.

Number of Prior Convictions (D-2)

Arrests which led to convictions were recorded for 73 prisoners received in Death Row. Among these 73, 27 had been convicted once, 18 had been convicted twice, 8 three times, 12 four times, 7 had five to nine convictions and 1 individual had eleven convictions.

For those executed and where the number of convictions was known, 70 percent had had a prior conviction. For murderers the proportion executed with a prior conviction was 71.9 percent. For those executed for rape, the percentage was 66.7.

For those commuted to life imprisonment 62.5 percent had a prior conviction. For murderers commuted to life the proportion with a prior conviction was 77.8 percent. For those with a prior conviction who were commuted to life for rape, the proportion was 42.9 percent.

Comment

For prisoners executed, murderers had a higher proportion of prior convictions 71.9 percent. For those murderers commuted to life the proportion with prior convictions was 77.8 percent. For those executed for rape the proportion with prior convictions was 66.7 percent, whereas for those commuted to life for rape the percentage with prior convictions was 42.9.

Number of Prior Commitments to Serve a Sentence (D-3)

For the 122 prisoners received into Death Row, prior commitments were unknown for 15, though it was known that 5 of these had been arrested one or more times. Twenty-eight had no prior arrests, 6 had been arrested but not convicted, and 2 had been arrested, convicted, but not committed. The remaining 71 had records of arrests, convictions and commitments.

In terms of seriousness in the judicial process the commitment to an institution to serve a sentence has more significance than arrests and convictions. For these 71 who experienced arrests, conviction and commitment less than half (30) had had only one commitment, 15 had had two commitments, 11 had three commitments, 9 had four commitments and 6 had five to ten commitments.

For those executed seven out of ten had prior commitments. For those commuted 59.4 percent had prior commitments.

Taking the offenses, for those executed for murder, 71.9 percent had prior commitments; for those commuted 72.2 percent had prior commitments. (In the analysis of the arrest-conviction table, the proportion commuted of murderers with prior arrest and conviction was 77.8. The shift of a single case made the difference in percent.)

Among the prisoners sentenced for rape who were executed or commuted to life imprisonment the proportions with prior commitments did not change from those noted for prior convictions.

Comment

There appears for these prisoners to be a close relationship between convictions and commitments. The proportions of prisoners with prior convictions and commitments are similar. There is evidence that for those for whom information is available two out of three have a prior record including commitment.

Most Serious Prior Offense for which Committed to Serve a Sentence (D-4)

The classification of former criminal behavior is difficult, for this study crimes against the person were given preference to property crimes. For the 71 prisoners received into Death Row for whom the prior offense was recorded for a commitment to serve a prior sentence 28 or 39.4 percent could be classified as against the person. These were: murder—1; Manslaughter—2; aggravated assault—22; rape—2; and sex offense—1.

Crimes against property numbered 35 or 49.3 percent. Largest among these was burglary, 19, followed by larceny, 9.

Other offenses accounted for the remaining 8.

For those disposed of over half of the 15 previously involved in burglary (one or more times) were executed (5 for murder and 4 for rape). Of the 16 disposed of who had a criminal record involving aggravated assault, 7 were executed (4 for murder and 3 for rape).

One murderer previously committed for murder received a new trial. One female murderer previously committed for manslaughter was commuted to life.

Comment

Prior offenses of those received into Death Row range from murder, manslaughter, aggravated assault and burglary to disorderly conduct and drunkenness. Though for 3 out of 10 there was no prior offense, and for 1 out of 10 prior commitments, if any, was unknown, the 6 out of 10 who had a prior record belie the cliché that "practically all persons sentenced to death are first offenders." In Maryland, it can be said that for those disposed of during the period 1936-1961, one-half of those with no prior record were executed. Of those with records who were disposed of, 60.3 percent were executed. It would appear that those without a prior record had a slight possibility of not receiving the death penalty.

TABLE A-1

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY**

1936-1961

Year of Disposition

Year of Disposition	All Prisoners			Executed			Committed to Life			New Trial			Sui- cide
	Total	Mur- der	Rape	T	M	R	T	M	R	T	M	R	M
All	102	61	41	57	36	21	34	19	15	9	4	5	2
1936	1	1	....	1	1	....	....	....	....	....	....	....	....
1937	5	4	1	1	1	....	4	3	1	....	....	....	....
1938	2	1	1	2	1	1	....	....	....	....	....	....	....
1939	1	1	....	1	1	....	....	....	....	....	....	....	....
1940	7	4	3	6	3	3	1	f1	....	....	....	....	....
1941	5	3	2	5	3	2	....	....	....	....	....	....	....
1942	6	4	2	5	3	2	1	1	....	....	....	....	....
1943	8	5	3	6	4	2	1	1	....	1	....	1	....
1944	6	3	3	4	2	2	....	....	....	2	1	1	....
1945	4	3	1	4	3	1	....	....	....	....	....	....	....
1946	7	2	5	5	1	4	2	1	1	....	....	....	....
1947	8	2	6	4	2	2	4	....	4	....	....	....	....
1948	4	1	3	3	1	2	1	....	1	....	....	....	....
1949	4	4	....	3	3	....	....	....	....	....	....	....	1
1950	4	4	....	....	....	....	1	1	....	2	2	....	1
1951	2	2	....	....	....	....	2	2	....	....	....	....	....
1952	4	3	1	....	....	....	3	2	1	1	1	....	....
1953	5	2	3	1	1	....	4	1	3	....	....	....	....
1954	1	1	....	1	1	....	....	....	....	....	....	....	....
1955	4	3	1	1	1	....	3	2	1	....	....	....	....
1956	1	....	1	....	....	....	....	....	....	1	....	1	....
1957	4	2	2	1	1	....	2	1	1	1	....	1	....
1958	2	1	1	....	....	....	1	1	....	1	....	1	....
1959	6	4	2	2	2	....	4	2	2	....	....	....	....
1960 .....	....	....	....	....	....	....	....	....	....	....	....	....	....
1961	1	1	....	1	1	....	....	....	....	....	....	....	....

f female

Note: This table excludes 20 prisoners under sentence of death on December 31, 1961.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE A-2

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961**

County	County of Commitment																	
	All Prisoners			Executed			Commuted to Life			New Trial (a)			Under Sentence of Death 12-31-61					
	Total	Mur-der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
Allegany	3	3	...	2	2	...	1	1	...	...	...	...	...	...	...	...
Anne Arundel	12	8	4	4	2	2	5	3	2	...	...	...	...	3	3	...
Baltimore City	59	37	22	24	18	6	16	10	6	6	3	3	2	11	4	7		
Baltimore Co.	7	2	5	2	1	1	3	...	3	1	...	1	...	1	1	...		
Calvert	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Caroline	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Carroll	1	1	...	1	1	...	...	...	...	...	...	...	...	...	...	...
Cecil	3	1	2	2	...	2	...	...	...	...	...	...	...	1	1	...
Charles	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dorchester	8	5	3	7	4	3	...	...	...	...	...	...	...	b1	1	...
Frederick	2	2	...	1	1	...	1	f	...	...	...	...	...	...	...	...
Garrett	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Harford	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Howard	3	2	1	...	...	...	2	1	1	1	1	...	...	...	...	...
Kent	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Montgomery	8	1	7	3	1	2	1	...	1	1	...	1	...	3	...	3		
Prince Georges	6	1	5	4	1	3	2	...	2	...	...	...	...	...	...	...
Queen Annes	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Marys	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Somerset	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Talbot	4	2	2	2	...	2	2	2	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wicomico	2	2	...	1	1	...	1	1	...	...	...	...	...	...	...	...
Worcester	4	4	...	4	4	...	...	...	...	...	...	...	...	...	...	...

(a) Baltimore City—All received life sentences in new trial except one retried for rape was acquitted. Baltimore County—Died of cancer before retrial. Howard —Life sentence. Montgomery—Change of venue to Howard, sentenced to 20 years.

(b) Dorchester—Tried twice in Dorchester, change of venue to Talbot for third trial (all sentences were to death).

f Female.

Source: Based on records compiled at Maryland State Penitentiary

TABLE A-3

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961**

Elapsed Time Between Date of Sentence to Death or Disposition

Elapsed Time (in months)	All Prisoners			Executed			Commuted to Life			New Trial			Sui- cide			Under Sen- tence of Death 12-31-61		
	Total	Mur- der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
Average days	305	350	242	220	257	158	388	448	312	249	237	258	502	409	513	304		
2 months and under	12	5	7	8	4	4	1	....	1	....	....	....	....	3	1	2
3 months	16	10	6	13	8	5	1	1	....	....	....	....	....	2	1	1
4 months	7	3	4	7	3	4	....	....	....	....	....	....	....	....	....	....
5 months	1	1	....	1	1	....	....	....	....	....	....	....	....	....	....	....
6 months	5	4	1	1	....	1	3	3	....	....	....	....	....	1	1	....	
7 months	11	6	5	2	2	....	1	1	....	3	1	2	....	5	2	3
8 months	8	4	4	1	1	....	5	1	4	2	2	....	....	....	....	....
9 months	10	6	4	5	3	2	4	3	1	1	....	1	....	....	....	....
10 months	8	5	3	5	3	2	2	1	1	1	1	....	....	....	....	....
11 months	3	....	3	....	....	....	1	....	1	2	....	2	....	....	....	....
12 months	5	2	3	2	1	1	2	1	1	....	....	....	....	1	....	1
13-18 months	21	12	9	10	8	2	8	2	6	....	....	....	1	2	1	1
19-24 months	3	2	1	....	....	....	1	1	....	....	....	....	1	1	....	1
25-36 months	8	7	1	2	2	....	4	4	....	....	....	....	....	2	1	1
37-40 months	4	4	....	....	....	....	1	1	....	....	....	....	....	3	3	....	

f Includes one female.

Note: Each month equals 30 days, thus 40 months equals 1,200 days. Time is computed beginning with the date of sentence and includes the day of disposition. Elapsed time for those under sentence of death on 12-31-61 is computed from date sentence began to 12-31-61.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE B-1

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961
Place of Birth**

Place of Birth	All Prisoners			Executed			Committed to Life			New Trial			Sui- cide			Under Sen- tence of Death 12-31-61		
	Total	Mur-		T	M	R	T	M	R	T	M	R	M	T	M	R		
		der	Rape															
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
Maryland	63	39	24	25	17	8	19	12	7	7	4	3	1	11	5	6		
North Carolina	15	7	8	7	2	5	5	4	1	....	....	....	....	3	1	2
Virginia	11	5	6	5	4	1	4	1	3	2	....	2	....	....	....	....
South Carolina	6	5	1	5	4	1	....	....	....	....	....	....	....	1	1	....	
District of Col.	5	2	3	1	....	1	4	2	2	....	....	....	....	....	....	....
Florida	3	2	1	3	2	1	....	....	....	....	....	....	....	....	....	....
Ohio	3	2	1	1	1	....	1	....	1	....	....	....	....	1	1	....	
Texas	3	....	3	2	....	2	1	....	1	....	....	....	....	....	....	....
New York	2	1	1	1	....	1	....	....	....	....	....	....	....	1	1	....	
West Virginia	2	2	....	1	1	....	....	....	....	....	....	....	....	1	1	....	
Alabama	1	1	....	1	1	....	....	....	....	....	....	....	....	....	....	....
Arkansas	1	....	1	....	....	....	....	....	....	....	....	....	....	1	....	1
Delaware	1	....	1	1	....	1	....	....	....	....	....	....	....	....	....	....
Georgia	1	1	....	1	1	....	....	....	....	....	....	....	....	....	....	....
New Hampshire ..	1	....	1	....	....	....	....	....	....	....	....	....	....	1	....	1
Oklahoma	1	1	....	....	....	....	....	....	....	....	....	....	1	....	....	....
Pennsylvania	1	1	....	1	1	....	....	....	....	....	....	....	....	....	....	....
Tennessee	1	1	....	1	1	....	....	....	....	....	....	....	....	....	....	....
Canada	1	1	....	1	1	....	....	....	....	....	....	....	....	....	....	....

f Includes one female.

Source: Based on records compiled at Maryland State Penitentiary.

TABLE B-2

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961
Marital Status**

Marital Status	All Prisoners			Executed			Committed to Life			New Trial			Sui- cide			Under Sen- tence of Death 12-31-61		
	Total	Mur-		T	M	R	T	M	R	T	M	R	M	T	M	R		
		der	Rape															
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
Known marital status																		
Single	65	39	26	33	22	11	19	10	9	2	1	1	1	10	5	5		
Married	39	17	22	19	10	9	10	4	6	6	2	4	1	3	....	3	
Separated	5	4	1	1	....	1	1	1	....	....	....	....	....	3	3	....	
Divorced	3	2	1	1	1	....	....	....	....	....	....	....	....	2	1	1
Widowed (a)	8	8	....	3	3	....	3	3	....	1	1	....	....	1	1	....	
Marital status unknown																		
unknown	2	1	1	....	....	....	1	1	....	....	....	....	....	1	....	1

(a) All killed spouses.

f Includes one female.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE B-3

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961**

Age At Time of Disposition

Age and Race	All Prisoners			Executed			Committed to Life			New Trial			Sui-cide		Under Sen-tence of Death 12-31-61 (a)		
	Total	Mur-der		T	M	R	T	M	R	T	M	R	M	T	M	R	
		Rape	T														M	R
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10	
White	25	16	9	10	7	3	8	4	4	1	....	1	1	5	4	1
Negro	97	55	42	47	29	18	26	15	11	8	4	4	1	15	6	9	
Median (in years)	27.8	28.9	25.5	27.3	28.9	25.8	25.0	27.5	23.6	*	*	*	*	29.4	*	*	
Known age																	
19 and under																	
White .....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Negro (b)	7	2	5	3	1	2	3	1	2	1	....	1	....	....	....	....
20-24																	
White	7	4	3	2	1	1	5	3	2	....	....	....	....	....	....	....
Negro	27	11	16	16	9	7	7	2	5	1	....	1	....	3	....	3
25-29																	
White	8	6	2	2	2	....	3	1	2	....	....	....	....	3	3	....
Negro	24	16	8	10	7	3	4	3	1	4	3	1	1	5	2	3	
30-34																	
White	2	2	....	2	2	....	....	....	....	....	....	....	....	....	....	....
Negro	17	8	9	11	7	4	1	....	1	1	....	1	....	4	1	3
35-39																	
White	1	....	1	1	....	1	....	....	....	....	....	....	....	....	....	....
Negro	10	8	2	5	4	1	5	14	1	....	....	....	....	....	....	....
40-44																	
White	3	1	2	1	....	1	....	....	....	....	....	....	....	2	1	1
Negro	4	3	1	1	....	1	....	....	....	1	1	....	....	2	2	....
45-49																	
White	3	3	....	2	2	....	....	....	....	....	....	....	1	....	....	....
Negro	2	2	....	....	....	....	2	2	....	....	....	....	....	....	....	....
50-54																	
White	1	....	1	....	....	....	....	....	....	1	....	1	....	....	....	....
Negro	1	1	....	1	1	....	....	....	....	....	....	....	....	....	....	....
55 and over																	
White .....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Negro	1	1	....	....	....	....	....	....	....	....	....	....	....	1	1	....
Age unknown																	
White .....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Negro	4	3	1	....	....	....	4	3	1	....	....	....	....	....	....	....

(a) Age on December 31, 1961.

(b) Ages of seven prisoners. Executed: For murder, one 18 year old; for rape, two 19-year olds. Committed to life: For murder, one 18 year-old; for rape, one 16 and one 17-year old. New trial: For rape, one 19 year-old.

f Includes one female.

* Median not computed where base 10 or less.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE B-4

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY**

1936-1961

Last School Grade Completed

Last School Grade Completed	All Prisoners						Executed			Committed to Life			New Trial			Suicide			Under Sentence of Death 12-31-61		
	Total	Mur-der	Rape	T M R			T M R			T M R			M T M R								
				T	M	R	T	M	R	T	M	R	M	T	M	R					
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10					
Known last grade completed																					
No school or illiterate	7	5	2	6	4	2	...	...	...	...	...	...	...	1	1	...			
Primary	43	24	19	24	12	12	14	7	7	2	2	...	1	2	2	...					
1	2	1	1	2	1	1	...	...	...	...	...	...	...	...	...	...
2	2	...	2	2	...	2	...	...	...	...	...	...	...	...	...	...
3	9	4	5	7	3	4	2	1	1	...	...	...	...	...	...	...
4	8	5	3	3	2	1	5	3	2	...	...	...	...	...	...	...
5	12	7	5	4	1	3	5	3	2	1	1	...	...	2	2	...			
6	10	7	3	6	5	1	2	...	2	1	1	...	1	...	...	...		
Secondary	64	37	27	25	19	6	15	9	6	7	2	5	1	16	6	10					
7	21	13	8	11	7	4	3	3	...	3	1	2	...	4	2	2					
8	14	8	6	5	5	...	2	2	...	3	1	2	...	4	...	4					
9	10	5	5	5	4	1	5	1	4	...	...	...	...	...	...	...
10	7	5	2	2	1	1	3	3	...	...	...	...	...	2	1	1			
11	6	3	3	...	...	...	1	...	1	1	...	1	1	3	2	1			
12	6	3	3	2	2	...	1	...	1	...	...	...	...	3	1	2			
College																					
1 year	1	1	...	...	...	...	...	...	...	...	...	...	...	1	1	...			
Last grade unknown	7	4	3	2	1	1	5	3	2	...	...	...	...	...	...	...

f Includes one female.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE B-5

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY**

1936-1961

Major Occupation

Major Occupation	All Prisoners			Executed		Committed to Life		New Trial		Sui- cide	Under Sen- tence of Death 12-31-61	
	Total	Mur- der	Rape	M	R	M	R	M	R	M	M	R
All	122	71	51	36	21	19	15	4	5	2	10	10
Laborer	58	35	23	21	11	9	7	....	2	1	4	3
Trades:												
Auto mechanic	1	....	1	....	....	....	1	....	....	....	....	....
Baker's helper	1	1	....	....	....	1	....	....	....	....	....	....
Brick layer's apprentice ..	1	....	1	....	....	....	1	....	....	....	....	....
Carpenter	1	....	1	....	....	....	1	....	....	....	....	....
Construction worker	1	1	....	1	....	....	....	....	....	....	....	....
Cook	4	3	1	....	1	2	....	....	....	....	1	....
Glazier	1	1	....	....	....	....	....	....	....	....	1	....
Interior decorator	1	....	1	....	....	....	....	....	....	....	....	1
Painter	2	2	....	2	....	....	....	....	....	....	....	....
Plasterer	1	....	1	....	1	....	....	....	....	....	....	....
Plasterer's helper	1	1	....	1	....	....	....	....	....	....	....	....
Sheet metal worker	2	1	1	....	....	....	....	1	....	....	....	1
Steel worker ..	3	1	2	....	....	1	1	....	1	....	....	....
Farming:												
Farmer	2	1	1	1	....	....	....	....	1	....	....	....
Farm hand ...	8	4	4	4	4	....	....	....	....	....	....	....
Gardener	1	1	....	....	....	1	....	....	....	....	....	....
Landscapeer ...	2	....	2	....	....	....	....	....	....	....	....	2
Service:												
Chauffeur	2	....	2	....	1	....	1	....	....	....	....	....
Janitor	1	1	....	1	....	....	....	....	....	....	....	....
Porter	2	2	....	....	....	1	....	1	....	....	....	....
Waiter	2	1	1	1	....	....	1	....	....	....	....	....
Other:												
Office manager	1	1	....	1	....	....	....	....	....	....	....	....
Garage proprietor	1	....	1	....	1	....	....	....	....	....	....	....
Salesman	1	....	1	....	....	....	....	....	....	....	....	1
Hospital attendant	1	....	1	....	1	....	....	....	....	....	....	....
Truck Driver ..	6	3	3	1	....	1	1	....	....	....	1	2
Cannery workers	4	2	2	1	1	....	....	....	1	1	....	....
Student	1	1	....	....	....	....	....	1	....	....	....	....
Housekeeper	1	1	....	....	....	1	....	....	....	....	....	....
Military	3	3	....	....	....	1	....	1	....	....	1	....
Other	5	4	1	1	....	1	1	....	....	....	2	....

f Female.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE C-1

PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY

1936-1961

Motive For Instant Offense

Motive for Offense	All Prisoners			Executed			Commuted to Life			New Trial			Sui-cide			Under Sen- tence of Death 12-31-61		
	Total	Mur- der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
Murder																		
Killing during robbery	32	32	....	17	17	....	7	7	....	2	2	....	....	6	6	....	
Killing during burglary	3	3	....	3	3	....	....	....	....	....	....	....	....	....	....	....
Domestic quarrel	8	8	....	3	3	....	4	f4	....	....	....	....	....	1	1	....	
Killing during escape	3	3	....	....	....	....	1	1	....	....	....	....	1	1	1	....	
Altercation	7	7	....	5	5	....	2	2	....	....	....	....	....	....	....	....
Jealousy	2	2	....	....	....	....	2	2	....	....	....	....	....	....	....	....
Rape																		
Sexual grati- fication	24	....	24	12	....	12	9	....	9	2	....	2	....	1	....	1
Rape during burglary or robbery	14	....	14	6	....	6	6	....	6	....	....	....	....	2	....	2
Motive unknown or unclear	29	16	13	11	8	3	3	3	....	5	2	3	1	9	2	7	

f Includes one female.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE C-2

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961**

Victim's Relationship to Defendant

Victim's Relationship	All Prisoners			Executed			Committed to Life			New Trial			Suicide			Under Sentence of Death 12-31-61		
	Total	Mur-der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
																	M	T	R
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
Known relationship																		
Stranger	70	36	34	37	21	16	22	8	14	4	2	2	...	7	5	2		
Spouse	9	9	...	3	3	...	4	f4	...	1	1	...	...	1	1	...
Acquaintance	12	10	2	6	4	2	4	4	...	...	...	...	...	2	2	...
Paramour	1	1	...	...	...	...	...	...	...	...	...	...	...	1	1	...
Rival	1	1	...	...	...	...	1	1	...	...	...	...	...	...	...	...
In-law	1	...	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Police officer	3	3	...	...	...	...	1	1	...	...	...	...	1	1	1	...
Unknown relationship																		
.....	25	11	14	11	8	3	1	1	...	4	1	3	1	8	...	8		

f Includes one female.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE C-3

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961**

Weapon Used in Carrying Out Offense

Weapon Used	All Prisoners			Executed			Committed to Life			New Trial			Suicide			Under Sentence of Death 12-31-61		
	Total	Mur-der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
																	M	T	R
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
Weapon known																		
No weapon used	9	...	9	3	...	3	5	...	5	1	...	1	...	...	...	...
Shooting																		
Handgun	34	28	6	15	11	4	11	10	1	1	1	...	1	6	5	1		
Rifle or shotgun	12	9	3	6	6	...	5	2	3	...	...	...	...	1	1	...
Cutting																		
Knife	12	7	15	6	4	2	4	1	3	1	1	...	...	1	1	...
Other	4	4	...	2	2	...	2	f2	...	...	...	...	...	...	...	...
Assault																		
Instrument to person	9	8	1	5	4	1	2	2	...	...	...	...	...	2	2	...
Person to person	12	1	11	8	1	7	3	...	3	1	...	1	...	...	...	...
Weapon unknown	30	14	16	12	8	4	2	2	...	5	2	3	1	10	1	9		

f Includes one female.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE C-4

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961**

Place Where Crime Occurred

Place of Occurrence	All Prisoners			Executed			Committed to Life			New Trial			Sui-cide			Under Sentence of Death 12-31-61		
	Total	Mur-der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
	All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10	
Known Place of Occurrence																		
Indoors																		
Victim's home..	27	19	8	15	11	4	10	f	3	...	...	...	...	2	1	1
Victim's place of business...	13	13	...	6	6	...	2	2	...	1	1	...	...	4	4	...
Home of third party	5	1	4	2	...	2	2	1	1	1	...	1	...	...	...	...
Place of business of third party	3	3	...	2	2	...	...	...	...	...	...	...	...	1	1	...
Cocktail lounge, dance hall or cabaret	3	3	...	...	...	...	3	3	...	...	...	...	...	...	...	...
Club room	2	2	...	2	2	...	...	...	...	...	...	...	...	...	...	...
Garage	1	...	1	1	...	1	...	...	...	...	...	...	...	...	...	...
Unoccupied house	1	...	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Outdoors																		
Park	3	1	2	2	1	1	1	...	1	...	...	...	...	...	...	...
Woods	4	...	4	2	...	2	1	...	1	...	...	...	...	1	...	1
Highway	11	6	5	6	3	3	2	...	2	...	...	...	1	2	2	...
Alley	5	4	1	4	3	1	...	...	...	...	...	...	...	1	1	...
Sidewalk	1	1	...	...	...	...	1	1	...	...	...	...	...	...	...	...
Vacant lot	2	...	2	1	...	1	...	...	1	...	1	...	1	...	...	...
Under bridge....	1	...	1	...	...	...	1	...	1	...	...	...	...	...	...	...
In vehicle																		
Car or cab.....	9	1	8	3	...	3	5	1	4	...	...	...	...	1	...	1
Police ambulance	3	3	...	...	...	...	3	3	...	...	...	...	...	...	...	...
Trolley car	1	1	...	...	...	...	...	...	...	1	1	...	...	...	...	...
Place of occurrence unknown	27	13	14	11	8	3	2	1	1	5	2	3	1	8	1	7		

f Includes one female.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE D-1

PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961

Prior Arrests	Number of Prior Arrests												Under Sentence of Death 12-31-61			
	All Prisoners			Executed			Commuted to Life			New Trial			Sui-icide			
	Total	Mur-der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10
No prior arrests....	28	16	12	14	8	6	8	4	4	2	1	1	....	4	3	1
With prior arrests	84	49	35	38	25	13	25	14	11	4	2	2	1	16	7	9
1	28	14	14	12	8	4	10	14	6	....	....	....	1	5	1	4
2	14	10	4	8	6	2	4	4	....	1	....	1	....	1	....	1
3	14	9	5	8	5	3	2	1	1	1	1	....	....	3	2	1
4	9	3	6	4	1	3	2	....	2	....	....	....	....	3	2	1
5-9	15	11	4	6	5	1	6	4	2	1	1	....	....	2	1	1
10-14	3	2	1	....	....	....	1	1	....	....	....	....	....	2	1	1
15-19 .....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
20-24 .....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
25-29	1	....	*1	....	....	....	....	....	....	1	....	*1	....	....	....	....
Prior arrests unknown	10	6	4	5	3	2	1	1	....	3	1	2	1	....	....	....

f Includes one female.

* 29 prior arrests.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE D-2

PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961

Prior Convictions	Number of Prior Convictions												Under Sentence of Death 12-31-61			
	All Prisoners			Executed			Commuted to Life			New Trial			Sui-icide			
	Total	Mur-der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10
No prior arrests	28	16	12	14	8	6	8	4	4	2	1	1	....	4	3	1
Arrested, no convictions	6	2	4	1	1	....	4	....	4	....	....	....	....	1	1	....
Arrested and convicted	73	46	27	35	23	12	20	14	6	3	2	1	1	14	6	8
1 conviction	27	16	11	18	11	7	5	14	1	....	....	....	1	3	....	3
2 convictions ..	18	11	7	8	5	3	6	5	1	2	1	1	....	2	....	2
3 convictions ..	8	6	2	3	3	....	1	....	1	....	....	....	....	4	3	1
4 convictions ..	12	9	3	4	3	1	4	2	2	1	1	....	....	3	3	....
5-9 convictions ..	7	3	4	2	1	1	3	2	1	....	....	....	....	2	....	2
11 convictions ..	1	1	....	....	....	....	1	1	....	....	....	....	....	....	....	....
Prior convictions unknown	15	7	8	7	a4	b3	2	1	1	4	1	c3	1	1	....	1

f Includes one female.

(a) One with 2 arrests for assault and battery, dispositions unknown.

(b) One with one arrest for non-support, disposition unknown.

(c) One with 29 arrests, dispositions unknown.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE D-3

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY**

1936-1961

Number of Prior Commitments to Serve a Sentence

Prior Commitments	All Prisoners			Executed			Committed to Life			New Trial			Suicide			Under Sentence of Death 12-31-61		
	Total	Mur-der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
No prior arrests..	23	16	12	14	8	6	8	4	4	2	1	1	....	4	3	1	
Arrested, no convictions	6	2	4	1	1	....	4	....	4	....	....	....	....	1	1	....	
Arrested, convicted, not committed	2	1	1	....	....	....	1	1	....	....	....	....	....	1	....	1
Arrested, convicted and committed	71	45	26	35	23	12	19	13	6	3	2	1	1	13	6	7		
1 commitment..	30	17	13	20	12	8	6	14	2	....	....	....	1	3	....	3
2 commitments	15	10	5	6	4	2	6	5	1	2	1	1	....	1	....	1
3 commitments	11	8	3	4	3	1	2	1	1	....	....	....	....	5	4	1
4 commitments	9	7	2	3	3	....	3	1	2	1	1	....	....	2	2	....	
5-10 commitments	6	3	3	2	1	1	2	2	....	....	....	....	....	2	....	2
Prior commitments unknown	15	7	8	7	a4	b3	2	1	1	4	1	c3	1	1	....	1	

f Includes one female.

(a) One with two arrests for assault and battery, dispositions unknown.

(b) One with one arrest for non-support, disposition unknown.

(c) One with 29 arrests, dispositions unknown.

Source: Based on records compiled at the Maryland State Penitentiary.

TABLE D-4

**PRISONERS RECEIVED INTO DEATH ROW:
MARYLAND STATE PENITENTIARY
1936-1961**

Most Serious Prior Offense for Which Committed to Serve a Sentence

Serious Prior Offense	All Prisoners			Executed			Committed to Life			New Trial			Sui- cide			Under Sen- tence of Death 12-31-61		
	Total	Mur- der	Rape	T	M	R	T	M	R	T	M	R	M	T	M	R		
All	122	71	51	57	36	21	34	19	15	9	4	5	2	20	10	10		
No prior com- mitment	36	19	17	15	9	6	13	5	8	2	1	1	...	6	4	2		
With prior commitment ...	71	45	26	35	23	12	19	13	6	3	2	1	1	13	6	7		
Murder	1	1	...	...	...	...	...	...	...	1	1	...	...	...	...	...
Manslaughter ..	2	2	...	...	...	...	1	f1	...	...	...	...	...	1	1	...
Aggravated assault	22	15	7	7	4	3	8	7	1	1	1	...	1	6	3	3		
Rape	2	1	1	2	1	1	...	...	...	...	...	...	...	...	...	...
Sex offense	1	...	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Robbery	3	3	...	2	2	...	...	...	...	...	...	...	...	1	1	...
Burglary	19	9	10	9	5	4	6	3	3	...	...	...	...	4	1	3
Larceny	9	6	3	6	5	1	...	...	...	1	...	1	...	1	...	1
Auto theft	4	2	2	3	1	2	1	1	...	...	...	...	...	...	...	...
Non-support ...	1	1	...	1	1	...	...	...	...	...	...	...	...	...	...	...
Carrying con- cealed weapons	1	1	...	1	1	...	...	...	...	...	...	...	...	...	...	...
Liquor laws ...	2	2	...	2	2	...	...	...	...	...	...	...	...	...	...	...
Selective Service Act ..	1	...	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Driving laws ...	1	1	...	...	...	...	1	1	...	...	...	...	...	...	...	...
Disorderly conduct	1	1	...	1	1	...	...	...	...	...	...	...	...	...	...	...
Drunkenness ...	1	...	1	1	...	1	...	...	...	...	...	...	...	...	...	...
Offense of Prior commit- ments unknown	15	7	8	7	4	3	2	1	1	4	1	3	1	1	...	1		

f Female.

NOTE: Only the most serious prior offense is shown. Crimes against a person were given preference over property offenses.

Source: Based on records compiled at the Maryland State Penitentiary.

**STATISTICAL FORM TO COLLECT DATA ON PRISONERS SENTENCED TO DEATH
STATE OF MARYLAND 1936-1961**

15-A 6-61
RESEARCH & STATISTICS BRANCH
U. S. BUREAU OF PRISONS

PRISONERS UNDER SENTENCE OF DEATH

1. STATE WHERE CONVICTED & SENTENCED		2. INSTITUTION WHERE PRESENTLY CONFINED		3. CITY & COUNTY OF CONVICTION		4. DATE RECORDED	
5. NAME LAST NAME, FIRST NAME, MIDDLE INITIAL(S)				6. SEX <input type="checkbox"/> Male <input type="checkbox"/> Female		7. BIRTHPLACE STATE OR COUNTRY	8. MARITAL STATUS
9. SERIAL NUMBER				10. RACE W-WHITE, N-NEGRO OTHER-SPECIFY		11. BIRTH DATE NO. OF YR.	12. EDUCATION LAST GRADE COMPLETED
13. PRINCIPAL OCCUPATION						14. COUNSEL IN FIRST TRIAL <input type="checkbox"/> Court Appointed <input type="checkbox"/> Own	
15. OFFENSE FOR WHICH CONVICTED FOR MULTIPLE OFFENSES, CIRCLE MOST SERIOUS							
16. CRIMINAL HISTORY <small>IF ANSWER TO a IS YES, ANSWER PART b - e . MAKE SURE NUMBER OF ENTRIES IN b EQUAL FIGURE ENTERED IN d</small>				a. PRIOR CRIMINAL RECORD <input type="checkbox"/> Yes <input type="checkbox"/> No	b. NO. OF ARRESTS	c. NO. OF CONVICTIONS	d. NO. OF COMMITMENTS
e. SPECIFY COMMITMENTS OFFENSE, INSTITUTION, DATES OF ADMISSION AND RELEASE							
17. DATES		f. APPEALS DATE, BASIS, DISPOSITION				18. DISPOSITION	
a. OFFENSE COMMITTED		1.				a. DATE EXECUTED & METHOD	
b. ARRESTED		2.				<input type="checkbox"/> Hang. <input type="checkbox"/> Elec. <input type="checkbox"/> Gas <input type="checkbox"/> Shoot.	
c. CONVICTED		3.				b. OTHER NOT EXECUTED	
d. SENTENCED TO DEATH		4.				19. ELAPSED TIME IN DAYS	
e. RECEIVED INTO PRISON		5.				a. ARREST TO FINAL DISPOSITION	
						b. DEATH SENT. TO FINAL DISPOSITION	
						c. DEATH SENTENCE TO 12/31	

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20. VICTIMS LIST CHRONOLOGICALLY NAME AND ADDRESS	21. RELATIONSHIP TO DEFENDANT SEE INSTR.	22. PLACE CRIME OCCURRED SEE INSTR.	23. WEAPON USED SEE INSTRUCTION SHEET	24. PREMED.		25. MOTIVE SEE INST. SHEET
				Yes	No	
(1)						
(2)						
(3)						
(4)						
(5)						
26. CO-DEFENDANTS						
27. COLLATERAL REFERENCES and/or ADDITIONAL COMMENTS						
28. SIGNATURE OF RECORDER				29. RECORDER'S TITLE & JOB LOCATION		

APPENDIX E

TABLE E-1

PLACE OF OCCURRENCE OF CRIMINAL HOMICIDE,
BY RACE AND SEX OF OFFENDER
BALTIMORE—1960

PLACE	TOTAL	RACE		SEX	
		Negro	White	Male	Female
Bedroom	21	12	9	18	3
Kitchen	11	9	2	7	4
Living Room	12	9	3	8	4
Stairway	4	4	0	4	0
Highway	39	34	5	35	4
Taproom	9	8	1	7	2
Other Commercial Place	12	11	1	12	0
Other	7	7	0	7	0
TOTAL	115	94	21	98	17
IN THE HOME OF:					
Both	22	13	9	18	4
Victim	16	13	3	15	1
Offender	9	7	2	4	5
Another	5	5	0	4	1
In the Home	52	38	14	41	11
Not in the Home	63	56	7	57	6

TABLE E-2

HOSPITALS TO WHICH HOMICIDE VICTIMS WERE TAKEN
BALTIMORE—1960

Hospital	Victim dead on arrival	Victim died in hospital	Total
Provident	8	8	16
University	12	4	16
St. Joseph's	5	5	10
City Morgue*	9	0	9
Johns Hopkins	2	7	9
Lutheran	5	3	8
Church Home	3	4	7
South Baltimore General	6	1	7
Franklin Square	2	4	6
Union Memorial	2	2	4
Maryland General	2	1	3
City Hospital	1	1	2
Mercy	1	1	2
St. Agnes	0	2	2
Fort Meade Hospital	0	1	1
Montebello State Hospital	0	1	1
TOTAL	58	45	103

* While the City Morgue is not a hospital, it had to be included for the total figure to be complete. Nine DOA cases were taken directly to the Morgue.

TABLE E-3

**CRIMINAL HOMICIDE AND PRESENCE OF ALCOHOL BY RACE
AND SEX OF VICTIM
BALTIMORE—1960**

IN VICTIM	Both Races			Negro			White		
	TOTAL	Male	Female	TOTAL	Male	Female	TOTAL	Male	Female
No Alcohol	28	14	14	21	11	10	7	3	4
Less than .015%	15	13	2	10	10	0	5	3	2
.015% and Over	21	19	2	18	16	2	3	3	0
Alcohol Present—									
Amount Unknown	21	16	5	17	12	5	4	4	0
Unknown	18	14	4	13	10	3	5	4	1

TABLE E-4

**HOURS AND PLACE OF OCCURRENCE OF CRIMINAL HOMICIDE
BY RACE AND SEX OF VICTIM
BALTIMORE—1960**

HOURS & PLACE	Both Races			Negro			White		
	TOTAL	Male	Female	TOTAL	Male	Female	TOTAL	Male	Female
8:PM—1:59 AM	51	38	13	35	28	7	16	10	6
Home	23	15	8	13	11	2	10	4	6
Not Home	28	23	5	22	17	5	6	6	0
2:AM—7:59 AM	15	12	3	12	9	3	3	3	0
Home	10	7	3	10	7	3	0	0	0
Not Home	5	5	0	2	2	0	3	3	0
8:AM—1:59 PM	16	12	4	13	9	4	3	3	0
Home	7	3	4	5	1	4	2	2	0
Not Home	9	9	0	8	8	0	1	1	0
2:PM—7:59 PM	21	14	7	19	13	6	2	1	1
Home	11	5	6	10	5	5	1	0	1
Not Home	10	9	1	9	8	1	1	1	0

TABLE E-5

**METHOD AND WEAPON BY RACE AND SEX OF OFFENDER
BALTIMORE—1960**

METHOD	Both Races			Negro			White		
	TOTAL	Male	Female	TOTAL	Male	Female	TOTAL	Male	Female
Stabbing	34	22	12	30	19	11	4	3	1
Shooting	41	38	3	29	27	2	12	11	1
Beating	23	23	0	22	22	0	1	1	0
Other	17	15	2	13	12	1	4	3	1
TOTAL	115	98	17	94	80	14	21	18	3
WEAPON									
Penknife, switch- blade knife	12	12	0	10	10	0	2	2	0
Kitchen knife, icepick	17	7	10	15	6	9	2	1	1
Pistol, revolver	29	26	3	20	18	2	9	8	1
Rifle, shotgun	12	12	0	9	9	0	3	3	0
Fists, Hands	14	14	0	14	14	0	0	0	0
Blunt Instrument	12	11	1	10	9	1	2	2	0
Other	18	15	3	15	13	2	3	2	1
Unknown	1	1	0	1	1	0	0	0	0
TOTAL	115	98	17	94	80	14	21	18	3

TABLE E-6

**CRIMINAL HOMICIDE OFFENDERS, BY RACE, SEX, AND AGE
BALTIMORE—1960**

OFFENDERS	Both Races			Negro			White		
	TOTAL	Male	Female	TOTAL	Male	Female	TOTAL	Male	Female
Under 15	4	4	0	3	3	0	1	1	0
15—19	12	11	1	10	9	1	2	2	0
20—24	22	17	5	21	17	4	1	0	1
25—29	19	15	4	16	13	3	3	2	1
30—34	10	8	2	10	8	2	0	0	0
35—39	8	7	1	7	6	1	1	1	0
40—44	25	22	3	17	15	2	8	7	1
45—49	7	6	1	4	3	1	3	3	0
50—54	1	1	0	1	1	0	0	0	0
55—59	4	4	0	2	2	0	2	2	0
60—64	3	3	0	3	3	0	0	0	0
65 and Over	0	0	0	0	0	0	0	0	0
All ages	115	98	17	94	80	14	21	18	3

TABLE E-7

**VIOLENCE IN CRIMINAL HOMICIDE, BY RACE AND SEX OF OFFENDER,
BY DEGREE OF VIOLENCE AND
BY PRESENCE OF ALCOHOL IN THE OFFENDER
BALTIMORE—1960**

OFFENDERS	Both Races			Negro			White		
	TOTAL	Male	Female	TOTAL	Male	Female	TOTAL	Male	Female
Non-Violence	66	54	12	54	44	10	12	10	2
Alcohol Present	33	25	8	27	21	6	6	4	2
No Alcohol	3	3	0	1	1	0	2	2	0
Alcohol Unknown ..	30	26	4	26	22	4	4	4	0
Violence	49	44	5	40	36	4	9	8	1
Alcohol Present	26	24	2	21	19	2	5	5	0
No Alcohol	3	2	1	3	2	1	0	0	0
Alcohol Unknown ..	20	18	2	16	15	1	4	3	1

TABLE E-8

**TYPE OF INTERPERSONAL RELATIONSHIP BETWEEN VICTIM AND PRINCIPAL OFFENDER
BY RACE AND SEX OF VICTIM, BY PLACE, AND VIOLENCE
BALTIMORE—1960**

Race and Sex	TOTAL	Close Friend	Family Relation- ship	Acquaint- ance	Stranger	Paramour Mistress Prostitute	Sex Rival	Enemy	Paramour of Offender's Mate	Felon or Police Officer	Inno- cent By- Stand- er	Homo- Sexual Partner
Both Races	101	7	20	29	26	12	5	2	0	0	0	0
Male	75	5	11	24	23	6	5	1	0	0	0	0
Female	26	2	9	5	3	6	0	1	0	0	0	0
Negro	77	7	12	23	19	10	4	2	0	0	0	0
Male	58	5	6	20	16	6	4	1	0	0	0	0
Female	19	2	6	3	3	4	0	1	0	0	0	0
White	24	0	8	6	7	2	1	0	0	0	0	0
Male	17	0	5	4	7	0	1	0	0	0	0	0
Female	7	0	3	2	0	2	0	0	0	0	0	0
PLACE												
Home	50	6	17	10	2	12	2	1	0	0	0	0
Not Home	51	1	3	19	24	0	3	1	0	0	0	0
NON- VIOLENCE	61	5	10	17	18	5	4	2	0	0	0	0
VIOLENCE	40	2	10	12	8	7	1	0	0	0	0	0

Unsolved Cases 2

TABLE E-9

DISPOSITION OF OFFENDER IN CRIMINAL HOMICIDE
BY RACE AND SEX, BALTIMORE—1960

Race and Sex	Total	DISPOSITION			
		Guilty	Not Guilty	Nolle Prosequi	Other
BOTH RACES	111*	60	36	2	13**
Male	94	50	30	2	12
Female	17	10	6	0	1
NEGRO	94	55	26	2	11
Male	80	46	21	2	11
Female	14	9	5	0	0
WHITE	17	5	10	0	2
Male	14	4	9	0	1
Female	3	1	1	0	1

* 4 suicides not included

** 6 to mental hospitals
3 to Juvenile Court
2 dismissed by Grand Jury
1 abated by death
1 case stotted, sentenced in other homicide

TABLE E-10

DISPOSITION BY MOTIVE OF OFFENDER IN CRIMINAL HOMICIDE
BALTIMORE—1960

MOTIVE	Total	DISPOSITION		
		Guilty	Not Guilty	Other
Altercation of relatively trivial origin; insult, curse, jostling, etc	29	19	7	3
Domestic quarrel	9	4	5	0
Jealousy	8	8	0	0
Altercation over money	9	6	2	1
Robbery	13	9	1	3
Revenge	15	5	8	2
Accidental	10	2	2	6
Self-defense	9	0	8	1
Concealing birth	1	1	0	0
Other motives	7	4	3	0
Unknown	1	0	1	0
Total	111	58	37	16

TABLE E-11

DEGREE OF CRIMINAL HOMICIDE DESIGNATED BY A COURT OF RECORD,
 BY RACE AND SEX OF OFFENDERS — BALTIMORE, 1960

Offenders Sentenced Degree of Homicide	Both Races			TOTAL	Negro		White		
	TOTAL	Male	Female		Male	Female	TOTAL	Male	Female
First degree murder	18	16	2	16	14	2	2	2	0
Second degree murder	22	18	4	19	16	3	3	2	1
Manslaughter	20	16	4	20	16	4	0	0	0
Total	60	50	10	55	46	9	5	4	1
Offenders Sentenced Who Had A Previous Arrest Record									
First degree murder	12	10	2	12	10	2	0	0	0
Second degree murder	16	15	1	15	14	1	1	1	0
Manslaughter	16	13	3	16	13	3	0	0	0
Total	44	38	6	41	35	6	1	1	0

TABLE E-12

MINIMUM SENTENCE, BY DEGREE OF CRIMINAL HOMICIDE AND BY RACE

BALTIMORE—1960

Degree of Homicide	Total	Percent	Percent of Total	Death	Life Imprisonment	More than 10 yrs. Less than Life	10 yrs.	8-9 yrs.	6-7 yrs.	4-5 yrs.	2-3 yrs.	Less than 2 yrs.	Probation	Sentence Suspended
1st Degree Murder														
Negro	16	88.9		3	13									
White	2	11.1		0	2									
Total	18	100.0	(30.0)	3	15									
2nd Degree Murder														
Negro	19	86.4				5	5			8 ^b	1			
White	3	13.6				2			1 ^a					
Total	22	100.0	(36.7)			7	5		1	8	1			
Manslaughter														
Negro	20	100.0					1	2	2 ^c	5	5	1	2	2
White														
Total	20	100.0	(33.3)				1	2	2	5	5	1	2	2
Grand Total	60			3	15	7	6	2	3	13	6	1	2	2
% of Total	100.0			(5.0)	(25.0)	(11.7)	(10.0)	(3.3)	(5.0)	(21.7)	(10.0)	(1.7)	(3.3)	(3.3)

a—Paroled

b—4 Paroled

c—1 Paroled

As of May 8, 1962

APPENDIX F

In researching the history of capital punishment in Maryland, the Chairman located an historical account of the first electrocution in America on August 6, 1890 at Auburn, New York. Included in the reports which appeared in the *Sun*, August 7, 1890 is an important summary of a New York State inquiry into the broad field of the death penalty. The details give an excellent portrayal of prevailing attitudes in Victorian America.

Excerpt from The *Sun*, August 7, 1890:

HISTORY OF THE REFORM IN THE DEATH PENALTY OF NEW YORK

"In 1886 the Legislature of New York became interested in the subject of capital punishment and its methods, and a commission was authorized 'to investigate and to report at an early date the most humane and practical method known to modern science of carrying into effect the sentence of death in capital cases.'

Three men constituted this commission—Elbridge T. Gerry, A. O. Southwick and Matthew Hale—the first a lawyer, the second a physician and the third a lawyer. The commission entered upon a course of painstaking research and investigation. All facts bearing upon the subject with which they were charged were carefully studied. All criminal law from earliest history to the present day was examined, and the method of judicial killing from the days of the Mosaic law to the present were examined in detail. Europe was visited by one or more of the commissioners for study, and at home patient and exhaustive experiments were made.

Each of the thirty-four methods, of causing death judicially, which had been employed since history began, was weighed and studied for possible suggestions in the line of the commission's duty. The reasons why the great list of thirty-four death methods in the past have been reduced to five, which are in vogue today, were reduced to conclusions of which the chief are:

First—That the effort to diminish the increase of crime by the indiscriminate application of capital punishment to various offenses involving different grades of moral turpitude, or, in other words, by the enlarging of the number of offenses to which capital punishment is made applicable, has proven a failure.

Second—That any undue or peculiar severity in the mode of inflicting the death penalty neither operates to lessen the occurrence of the offense nor to produce a deterrent effect.

To the method hanging to cause death the commission objected, finally, because

1. Of the demoralizing effect of giving stimulants to the condemned immediately before execution.

2. The incidental danger of an attempt to commit suicide and of some subsequent horrible scene, instances being cited for which a wound

in the throat with suicidal intent had become an avenue for respiration after the drop had fallen and while the condemned swung in air.

3. Resistance or suffering by the offender.
4. Unskillfulness, or brutal indifference of the executioner.
5. Misconduct of the bystanders.
6. Sympathy of bystanders occasioned by the great age or other personal circumstances of the condemned.
7. Complication of the process caused by a supposed necessity of executing more than one person at one time.

The commission, in view of all, concluded that the time had come when a radical change should be effected, and the commission's research narrowed its choice to four methods of judicial killing:

1. Electricity.
2. Prussic acid or other poison.
3. The guillotine.
4. The garrote.

Upon these the commission invited expression of opinion from Supreme Court and county judges, district attorney and sheriffs throughout the State, the final result being these recommendations to the Legislature:

1. That the present method of inflicting the death penalty be abolished, and, as a substitute, that a current of electricity of sufficient intensity to destroy life instantly, be passed through the body of the convict.

2. That every such execution take place in a State prison, to be designated by the court in its judgment and death warrant, and that the time of execution be not fixed by the court, except by designating a period within which it shall take place.

3. That after execution a post-mortem examination of the body be made, after which dissection, or burial without ceremony in the prison grave-yard, with sufficient quick lime to insure immediate consumption of the remains.

The report of the commission was submitted to the Legislature of 1888, and a bill embodying the above recommendations was presented in the House, the same to become operative January 1, 1889. It was passed in 1888."

*IN THE LEGISLATURE.
SOME DRAMATIC INCIDENTS IN THE PASSAGE
OF THE NEW LAW*

"Dramatic scenes attended the passage, by the New York Legislature, of the measure under which Kemmler suffered death. The bill came from the hands of a commission which had been appointed to consider a change in New York's method of executing murderers. It was first presented in the Assembly, and gray-haired Saxton—he of the electoral bill—as chairman of the Assembly's judiciary committee, had assumed its championship.

It was a winter night, and the great Capitol was thronged. A measure which should abolish the noose and the gibbet was to be placed on its final passage in the House, and Charles T. Saxton, an able lawyer and a respected man, would make the chief speech in its behalf. That a struggle would be made against 'the newfangled notion' by those who always oppose innovation was well known. The committee hearings on the bill had foreshadowed this. There was another and more powerful influence to be pitted against the measure, for it was well known that the Catholic members would bitterly oppose the clauses of the bill which consigned the murderer's remains to the prison yard with quicklime to hasten dissolution, and that without religious rites.

Every member was in his place. The floor, the galleries and the Speaker's platform even held curious spectators. The bill to substitute the mysterious force of electricity for the rope was moved, and Saxton, standing in his place in the brilliant chamber, made his plea for its passage. Then came the battle, and it was hotly waged. Ridicule and taunts were leveled at the commission which framed the bill—one of them sitting beside Mr. Saxton. Men grew angry, some insulting, others used vicious sarcasm, and at each onslaught the gray-haired Saxton, with magnificent voice and keen mind, stood ready.

Finally, within 10 feet of the bill's defender, arose war veteran Longley, Brooklyn. He cited the agony of pain relatives must suffer at not being able to bury their dead, though the dead be a murderer. Then he referred to the war time and to the sad comfort afforded those who were permitted to receive and bury the bodies of the loved ones killed in battle.

'I move to amend,' concluded Mr. Longley, 'that friends or relatives may reclaim the body of the executed man.'

There was both heart and brain in the response to this.

'When a man by his crime forfeits his life to the State,' spoke Mr. Saxton 'the State has undoubted right to dispose of the murderer's body as public policy may direct. What comfort can be afforded those who loved the criminal by viewing the remains which in life had failed of self-respect, and which in death bear the stamp of the State's righteous desecration?'

'In Chicago,' continued the speaker, 'the bodies of executed criminals were exposed to relatives and to the public, and that city was brought very close to an insurrection. Public policy would have been better served had the provisions of this bill been operative there.'

There was a pause, in which the throng was hushed, and Mr. Saxton, turning toward Longley, looked into his eyes.

'Finally,' he broke forth in a searching monotone that reached every ear, 'does the gentleman wish to force upon me, who served as did he in the Union armies, a comparison of the sacred sorrow for the dead soldier with the passion of regret over the corpse of a dead murderer?'

Interest of the crowded chamber was too intense for cheers. The crowd just waited in silence. This was broken by new anticipations as Mr. Roesch—who since, as Senator, passed the weekly payment bill—arose to speak. It was known that he would voice the Catholic opposition to the bill. Said he:

'I hold that where relatives claim the remains the State has no right to retain them. Property exists in human bodies, and besides (and his voice rose) this bill takes away the right of burial in consecrated ground.'

Here was the challenge made by religious convictions.

'Consecrated ground!' thundered Saxton, 'Is the plea here made that hardship follows retention of a criminal corpse from consecrated ground? The criminal who in life would not respect the flesh protected by the law he broke may not in death have demanded for it that which himself had forfeited!'

'But,' shouted Mr. Roesch, 'was not the body of Christ stamped with the mark of the law's desecration, and was it not afforded decent burial?'

The inquiry was launched upon the air with vehement emphasis. There was not a sound in the chamber where hundreds waited in suspense to catch the response. Saxton stood a moment with bowed head, his face as white as his hair, and then tossing back his locks like a mane, with quivering lips and reverent tone he said:

'I will not stand here to answer a question based upon the association of the Holy Saviour's memory with that of men executed by the State of New York for murder.'

The tension of the listeners was relaxed. The bill went through with some amendments and was sent to the Senate. After a less dramatic history there it passed and Governor Hill signed it. It took effect January 1, 1889, and Kemmler was first to commit murder in this State after that date, hence the first to suffer death under its provisions."

RECORD OF KEMMLER'S LIFE HIS CAREER AND THE MURDER FOR WHICH HE SUFFERED DEATH

"Kemmler was a man of low mental and moral qualities. The surroundings of his birth and early life were very bad. His father was a butcher in Philadelphia where William, the murderer, was born in 1860. The boy grew up in the shambles and in the market place. His parents sent him to school for a brief period, and several times he saw the inside of a church and heard the service there. These feeble influences constituted the only contact the boy and man ever had with things pure or good. Kemmler's was a life that grew rankly. On no side did it bear the impress or polish of any training or efforts to ennoblement. He was a sample product of conditions existing today in all large cities.

He worked in the slaughter-house with his father, then he became a brick-yard worker, and finally he became a huckster on his own account. Of his rascally devices to cheat customers while huckstering, Kemmler since his imprisonment has told with chuckles and much gusto.

In 1887 Kemmler married a worthless woman named Ida Porter in Camden, New Jersey. Two days later he found she had been previously married, and he left her to live with Matilda Ziegler. They moved to Buffalo, N. Y. Kemmler frequently found his mistress purloining money from his clothing, and he suspected infidelity on her part. They quarreled, blows were exchanged, Kemmler became a hopeless drunkard.

On the morning of March 29, 1889, all Buffalo was shocked by the news of the brutal butchery of a woman at No. 526 South Division Street.

The woman killed was 'Tillie Ziegler,' and the murderer was the Philadelphia butcher's son, Kemmler. The murder was the first that had been committed in the State of New York after the law to kill murderers by electricity had become operative.

Kemmler was arrested, and in the meantime the unfortunate woman was removed to a hospital. Her face, arms and breast were covered with blood, and she was quite insensible. A casual examination resulted in the discovery of twenty-six distinct gashes on the face and head and five bad wounds on the right hand, arm and shoulder, she having evidently tried to defend herself from the savage attack of her paramour. She lingered in a comatose condition until the next day, when death ensued before she had once regained consciousness, and she was, therefore, unable to make an ante-mortem-statement. The only eye-witness was the four-year-old daughter of the victim, who said: 'Papa hit mamma with the hatchet when she was lying on the floor.'

After his arrest the murderer refused to talk of the crime, and at one time there were doubts as to his sanity. He made no attempt to escape after the assault. When pressed to give a reason for the deed he only said, 'I wanted to kill her, and the sooner I hang for it the better.' Nearly \$500 in cash was found at his room. The coroner's jury pronounced Kemmler a murderer, and immediately after the inquest he was taken from the jail to the police court and arraigned on a charge of murder in the first degree. He pleaded guilty, saying he had no use for a lawyer.

Judge Childs sentenced him to die within the week beginning June 24, 1889, by the application of electricity, as provided by the code, at Auburn State Prison. Counsellor Hatch took exception to the sentence, upon the ground that the punishment was cruel and unusual and contrary to the spirit of the constitution. Kemmler reached Auburn Friday, May 24, at midnight. A writ of habeas corpus was served upon Warden Durston just before the fatal day arrived, and upon June 25 an exhaustive argument was heard by County Judge Day. The whole argument was as to the constitution of the law substituting electricity for the gibbet, upon the ground of the former being cruel and unusual. Judge Day dismissed the writ, and the case was taken to the general term of the Supreme Court at Rochester, where the constitutionality of the law was upheld. The last resort was the Court of Appeals, and here, too, the decision was adverse to Kemmler's counsel.

The criminal was resentenced to die in the week beginning April 28, 1890. It is likely Kemmler would have been electricized on April 30, but on the 25th a United States writ of habeas corpus was served on the warden and the case was then carried to the United States Supreme Court on the point of constitutionality of the law on the same grounds as urged in the State courts. The New York courts were upheld in the final appeal, and Kemmler was again sentenced to be killed in the week beginning August 4."

William Kemmler was executed at Auburn, New York, on August 6, 1890.