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A Guide to Sources of Texas Criminal Justice Statistics

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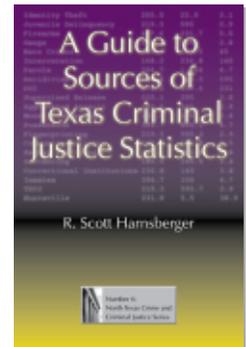
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Chapter 7

Capital Punishment and Death Row

Appellate Courts

•**409** *Annual Statistical Report for the Texas Judiciary*. Austin: Office of Court Administration [2005–date].

<<http://www.courts.state.tx.us/pubs/annual-reports.asp>>

Presents data for the Texas Court of Criminal Appeals on direct appeals (death penalty and DNA appeals–death sentence); applications for writ of habeas corpus (death penalty); and motions for stay of execution. Also includes a county-level summary of death sentences and life sentences imposed in criminal cases in state district courts.

Research Note: Data is reported by fiscal year. Reports are available online back to 1996. Previously published under the titles *Texas Judicial Council Annual Report* (1974–1978), *Texas Judicial System Annual Report of Statistical and Other Data for Calendar Year [year]* (1979–1983), and *Texas Judicial System Annual Report Fiscal Year [year]* (1984–2004).

410 Fagan, Jeffrey, and James Liebman. *Processing and Outcome of Death Penalty Appeals after Furman v. Georgia, 1973–1995: [United States]*. Ann Arbor: National Archive of Criminal Justice Data, Inter-university Consortium for Political and Social Research, Institute for Social Research, University of Michigan, 2002.

<<http://dx.doi.org/10.3886/ICPSR03468>>

This data collection effort was undertaken to analyze the outcomes of capital appeals in the United States between 1973 and 1995. Datasets are provided as follows: state characteristics and death verdict reversals by state and year (DS1); state and county characteristics and death verdict reversals by county, state, and year (DS2); direct appeal data (DS3); state post-conviction data (DS4); and habeas corpus data (DS5).

411 Latzer, Barry, and James N.G. Cauthen. *Justice Delayed? Time Consumption in Capital Appeals: A Multistate Study*. New York: John Jay College of Criminal Justice, 2007. NCJ 217555

<<http://www.ncjrs.gov/pdffiles1/nij/grants/217555.pdf>>

Presents the results of a study that focused on the time consumed by capital appeals in fourteen representative states (including Texas) with enforceable death penalty laws. For each state, every capital case resolved on direct appeal by the court of last resort (COLR) between January 1, 1992, and December 31, 2002, was examined. Among the state-level data reported are frequency of decisions in direct appeals of capital cases (Fig. 5); median time (in days) from sentence to state supreme court decision (Fig. 9); median time (in days)

from notice of appeal to state supreme court decision (Fig. 10); median time (in days) from sentence to notice of appeal (Fig. 13); median time (in days) from notice of appeal to last brief filed (Fig. 14); median time (in days) from last brief to oral argument (Fig. 15); and median time (in days) from oral argument to state supreme court decision (Fig. 16).

Research Note: Datasets are available through the National Archive of Criminal Justice Data, Inter-university Consortium for Political and Social Research (ICPSR), Institute for Social Research, University of Michigan.

<<http://dx.doi.org/10.3886/ICPSR21680>>

412 *Texas Court of Criminal Appeals: An Inventory of Court of Criminal Appeals Execution Case Files at the Texas State Archives, 1974–2008*. Austin: Texas State Library and Archives Commission.

<<http://www.lib.utexas.edu/taro/tslac/30112/tsl-30112.html>>

Contains individual files for executed inmates with records that include grand jury, hearing, trial, and *voir dire* examination transcripts; briefs; copies of exhibits; statements; correspondence, memoranda opinions; motions; death warrants; indexes; juror questionnaires; post-conviction writs of habeas corpus; and audio-visual materials.

Capital Punishment

•**413** *Capital Punishment—Statistical Tables* [National Prisoner Statistics NP-8]. Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice [annual, 1980–date].

<<http://purl.access.gpo.gov/GPO/LPS23986>>

Reports the following state-level data: capital offenses; method of execution; prisoners under sentence of death, by region, jurisdiction, and race; Hispanics and women under sentence of death; number of persons executed, 1930–date; women under sentence of death, by race; and advance count of executions.

Research Note: Editions are available online back to 1993. Beginning with the 2006 edition, this report is available online only in the form of data tables on the BJS website (“Statistical Tables” was added to the title beginning with that edition). Statistics for 1971 through 1984 can be found in a separate overlapping publication in the National Prisoner Statistics series, which was also issued under the title *Capital Punishment*. This annual report was initially published by the National Criminal Justice Information and Statistics Service (1971–1979), and later by the Bureau of Justice Statistics (1980–1984). It subsequently merged with *Prisoners in State and Federal Institutions on . . .* to form *Correctional Populations in the United States* (see entry 414). Statistics prior to 1971 were reported by the Federal Bureau of Prisons in various publication series. Datasets are available (1973–date) through the National Archive of Criminal Justice Data, Inter-university Consortium for Political and Social Research (ICPSR), Institute for Social Research, University of Michigan.

<<http://www.icpsr.umich.edu/icpsrweb/ICPSR/series/00010>>

•**414** *Correctional Populations in the United States*. Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice [annual, 1985–1998, 2009–date].

<<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbse&sid=5>>

Provides state-level data on movement of all prisoners under sentence of death, by race; movement of female prisoners under sentence of death, by race; movement of Hispanic prisoners under sentence of death; time between sentencing and the year-end for prisoners under sentence of death; age of prisoners under sentence of death; legal status at time of capital offense for prisoners under sentence of death; felony history of prisoners under sentence of death; age of prisoners received from court under sentence of death, by race; level of education completed by prisoners received from court under sentence of death; legal status at time of capital offense for prisoners received from court under sentence of death, by race; felony history of prisoners received from court under sentence of death, by race; means of removal for all prisoners who left death row, by race; status of prisoners removed from death row, by race; time between sentencing and removal for prisoners removed from death row; age of prisoners removed from death row; legal status at time of capital offense for prisoners removed from death row; felony history of prisoners removed from death row; prisoners executed under civil authority in the United States, by year, region, and jurisdiction; and prisoners executed under civil authority in the United States, by race and offense.

Research Note: See entry 229 for background on this publication series.

•**415** *Death Row Information*. Huntsville: Texas Department of Criminal Justice [online only, 1982–date].

<<http://www.tdcj.state.tx.us/stat/deathrow.htm>>

Provides the following data on executed Texas inmates: roster of executed inmates (with links to profiles containing summaries of the crimes that sent them to death row and their last statements); county of conviction; number of executions by year; media witness list; and electrocutions (1923–1973).

Research Note: See also entry 419.

416 *Death Row U.S.A.: A Quarterly Report by the Criminal Justice Project of the NAACP Legal Defense and Educational Fund, Inc.* [online only, Summer 2000–date].

<<http://naacpldf.org/death-row-usa>>

The “Roster of the Executed” is a chronological list of executions since the 1976 reinstatement of capital punishment (date of execution, name of defendant, number if multiple victims, state, defendant/victim race, and victim

gender). Each issue also provides an execution breakdown by state, including the race of the defendant and victim.

Research Note: See also entry 420.

417 Espy, M. Watt, and John Ortiz Smykla. *Executions in the United States, 1608–2002: The Espy File* [4th ICPSR ed.]. Ann Arbor: National Archive of Criminal Justice Data, Inter-university Consortium for Political and Social Research, Institute for Social Research, University of Michigan, 2004.

<<http://dx.doi.org/10.3886/ICPSR08451>>

Provides data on executions performed under civil authority in the United States between 1608 and 2002, including the age, race, name, sex, and occupation of the offender; place, jurisdiction, date, and method of execution; and the crime for which the offender was executed.

418 Perry, Steven W. *American Indians and Crime: A BJS Statistical Profile, 1992–2002*. Washington, D.C.: Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 2004. NCJ 203097

<<http://purl.access.gpo.gov/GPO/LPS75639>>

Provides statistics on capital punishment among American Indians, by state and status, 1973–2002 (Table 31).

Research Note: Earlier editions are available.

Death Row

•**419** *Death Row Information*. Huntsville: Texas Department of Criminal Justice [online only].

<<http://www.tdcj.state.tx.us/stat/deathrow.htm>>

Provides the following data on Texas death row inmates: roster of offenders on death row (with links to profiles containing summaries of the crimes that sent them to death row); gender and racial statistics of death row offenders; scheduled executions; county information for death row offenders; roster of women on death row; offenders no longer on death row; citizenship of death row offenders; death row facts; and historical death row data (1923–1973).

Research Note: See also entry 415.

420 *Death Row U.S.A.: A Quarterly Report by the Criminal Justice Project of the NAACP Legal Defense and Educational Fund, Inc.* [online only, 2000–date].

<<http://naacpldf.org/death-row-usa>>

Provides a state-level summary of prisoners currently on death row (total, by race, and percentage of total), along with a roster of federal and state death row prisoners (name, race, and if female or juvenile).

Research Note: See also entry 416.

Federal Criminal Justice System

421 *The Federal Death Penalty System: A Statistical Survey (1988–2000)*. Washington, D.C.: U.S. Department of Justice, 2000.

<<http://purl.access.gpo.gov/GPO/LPS6116>>

The U.S. Department of Justice instituted a policy in 1988 that required United States Attorneys to submit to the United States Attorney General for review and approval any case in which they wanted to seek the death penalty (the decision not to seek the death penalty was left to their discretion). A revised protocol was instituted in 1995 that requires United States Attorneys to submit for review all cases in which a defendant is charged with a capital-eligible offense, regardless whether they actually favor seeking the death penalty in that case. These submissions are initially reviewed by a committee of senior U.S. Justice Department attorneys, known as the Attorney General's Review Committee on Capital Cases, which makes independent recommendations to the Attorney General. This report provides detailed statistics by federal judicial district, both before and after the revised Death Penalty Protocol of 1995, on recommendations to seek the death penalty by United States attorneys, the review committee, and the Attorney General, based on the race/ethnicity of the defendant and the victim(s), as well as the prevalence of agreement and disagreement among these three parties on recommendations to seek the death penalty based on the race/ethnicity of the defendant.

422 Klein, Stephen P., Richard A. Berk, and Laura J. Hickman. *Race and the Decision to Seek the Death Penalty in Federal Cases*. Santa Monica, Calif.: RAND Corporation, 2006. NCJ 214730

<<http://www.ncjrs.gov/pdffiles1/nij/grants/214730.pdf>>

This report examines possible defendant and victim race effects in capital decisions in the federal system. It presents an analysis of 312 cases, involving 657 defendants, received by the U.S. Department of Justice's Capital Case Unit (CCU) between January 1, 1995, and July 31, 2000, for which defendant- and victim-race data were available in the ninety-four federal judicial districts. The database was structured to allow the researchers to examine two stages in the federal prosecution process, i.e., the United States Attorney Office's recommendation to seek or not to seek the death penalty, and the final Attorney General charging decision.

Research Note: Readers are advised to review the critique of the report’s methodology and conclusions authored by David C. Baldus, and the letter written by Baldus and other “expert consultants” recruited to work with RAND on the report. These are included in *Oversight of the Federal Death Penalty: Hearing before the Subcommittee on the Constitution of the Committee on the Judiciary, United States Senate, One Hundred Tenth Congress, First Session, June 27, 2007*, pp. 176–192, 326–329 (Washington, D.C.: G.P.O., 2009). <<http://purl.access.gpo.gov/GPO/LPS112781>>. Datasets are available through the National Archive of Criminal Justice Data, Inter-university Consortium for Political and Social Research (ICPSR), Institute for Social Research, University of Michigan. <<http://dx.doi.org/10.3886/ICPSR04533>>

Females

423 Streib, Victor L. *Death Penalty for Female Offenders, January 1, 1973, through June 30, 2009*. Ada, Ohio: College of Law, Ohio Northern University, 2009.

<http://www.law.onu.edu/faculty_staff/faculty_profiles/victorstreib.html>

Provides a state-by-state breakdown of death sentences for female offenders (Table 2); a list of executions of female offenders (January 1, 1900, through June 30, 2009), by state (Tables 3, 4); and a chronological roster of death sentences imposed on females (Appendix A). Case summaries are provided for female offenders under death sentences, by state (Appendix B).

Research Note: The report is periodically updated.

Habeas Corpus

424 King, Nancy J., Fred L. Cheesman II, and Brian J. Ostrom. *Final Technical Report: Habeas Litigation in U.S. District Courts: An Empirical Study of Habeas Corpus Cases Filed by State Prisoners Under the Antiterrorism and Effective Death Penalty Act of 1996* [Nashville, Tenn.]: Vanderbilt University Law School; [Williamsburg, Va.]: National Association for State Courts, 2007. NCJ 219559

<<http://www.ncjrs.gov/pdffiles1/nij/grants/219559.pdf>>

This report provides empirical information about the processing of state prisoner petitions seeking habeas corpus relief in U.S. District Courts under the Antiterrorism and Effective Death Penalty Act of 1996, also known as AEDPA (P.L. 104-132, 110 Stat. 1214). The study collected analyzed data from documents in a sample of habeas cases filed in U.S. District Courts. The non-capital case sample consisted of 2,384 cases randomly selected from nearly 37,000 non-capital habeas cases filed by state prisoners in federal district court during 2003 and 2004. The capital case sample consisted of cases begun in 2000, 2001, and 2002 in the thirteen federal districts with the highest volume of capital habeas filings, including the four Texas districts. This sample of

368 cases includes more than half of the capital habeas cases filed nationally during the period. District-level descriptive data is reported concerning the time elapsing from state conviction to federal filing; claims raised in habeas petitions; the application of defenses and limitations; case processing time; and merits review and outcome. Comparisons of post-AEDPA to pre-AEDPA case processing, and capital-case processing to non-capital-case processing, are provided. The report also provides results of regression analyses that examined which features are associated with variations in processing time for both capital and non-capital cases, variation in the time before capital cases are filed, and variation in the likelihood of relief in capital cases.

425 Liebman, James S., Jeffrey Fagan, and Valarie West. *A Broken System: Error Rates in Capital Cases, 1973–1995*. New York: Columbia Law School, Columbia University, 2000.

<<http://www2.law.columbia.edu/instructionalservices/liebman/>>

Presents the results of an analysis of all published state and federal judicial opinions in the United States between 1973 and 1995 that conducted direct and habeas review of state capital judgments, as well as many of the available opinions that conducted state post-conviction review of those judgments. The authors checked and catalogued every case revealed by these opinions, and hundreds of items of information about each case from the published decisions and the NAACP Legal Defense Fund's quarterly death row census were also collected. Section VIII presents state comparisons on rates of serious error found on state direct appeal; rates of serious error found on state post-conviction; rates of serious error found on state direct appeal and state post-conviction; rates of serious error found on federal habeas corpus; rates of serious error found by state versus federal courts; overall rates of error found on state direct appeal, state post-conviction, and federal habeas corpus; length of time of review; capital sentencing and execution rates and the two compared; demographic factors; and court factors. Section IX presents federal circuit court and regional comparisons. The appendixes contain state capital punishment report cards (Appendix A); federal circuit court and regional capital punishment report cards (Appendix B); incomplete list of capital judgments reversed on state post-conviction and related types of review, by state (Appendix C).

Research Note: Texas is in the U.S. Court of Appeals Fifth Circuit and has four districts: Eastern, Northern, Southern, and Western. Datasets are available through the Inter-university Consortium for Political and Social Research (ICPSR), Institute for Social Research, University of Michigan.

<<http://dx.doi.org/10.3886/ICPSR03468>>

Inmate Attitudes

426 Hilla, Derek Ian. “Capital Punishment: What Our Readers Say.” *The Echo* 80, no. 9 (November 2007): 1, 7–9.

Reports the result of a poll of readers of *The Echo* (the newspaper published by and for inmates incarcerated in the Texas Department of Criminal Justice) on their opinions about capital punishment, including whether the death penalty should be a sentencing option, whether life without parole should be utilized in place of the death penalty, and whether the death penalty acts as a deterrent. Responses are categorized by age, gender, race, and conviction.

Juvenile Capital Punishment

427 Streib, Victor L. *The Juvenile Death Penalty Today: Death Sentences and Executions for Juvenile Crimes, January 1, 1973–February 28, 2005*. Ada, Ohio: College of Law, Ohio Northern University, 2005.

<http://www.law.onu.edu/faculty_staff/faculty_profiles/victorstreib.html>

Provides a roster of executions of juvenile offenders (Table 1); the minimum death penalty age by jurisdiction (Table 2); a state-by-state breakdown of juvenile death sentences (Table 4); and a chronological roster of juvenile death sentences imposed (Appendix A). Case summaries are provided for juvenile offenders under death sentences, by state (Appendix B).

Research Note: The report is periodically updated.

Wrongful Conviction

428 *The Innocence List*. Washington, D.C.: Death Penalty Information Center [online only, 1973–date].

<<http://deathpenaltyinfo.org/innocence-list-those-freed-death-row>>

A continuously updated list of defendants who (a) have been acquitted of all charges related to the crime that placed them on death row, or (b) had all charges related to the crime that placed them on death row dismissed by the prosecution, or (c) been granted a complete pardon based on evidence of innocence. The defendants are listed chronologically by the year of their exoneration along with the following information: state, race, year of conviction, number of years between conviction and exoneration, reason for exoneration, and if DNA testing was involved. The defendants’ names are linked to brief summaries of their cases. The DPIC website also provides a state-by-state death penalty information database.

Research Note: Other lists of wrongful convictions, based on slightly different criteria, are maintained by the Center on Wrongful Convictions (Northwestern University School of Law) and the Innocence Project (Benjamin N. Cardozo School of Law at Yeshiva University).