

SOME NOTES ON DEATH ROW AND THE
DEATH PENALTY IN MASSACHUSETTS

Massachusetts Department of Correction

John J. Fitzpatrick
Commissioner

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Acting Social Science Research Specialist, Carroll T. Miller

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Disposition of the Cases of Men Sentenced to Death 1898 - 1971

The table below presents the disposition of the cases of individuals who have been sentenced to die in the electric chair from the date of its installation in 1898 through May 15, 1971.

Table I

Men Sentenced to Death in the Electric Chair (1898 - 1971)

| <u>Disposition</u> | <u>N</u> | <u>%</u> |
|--|-----------|---------------|
| 1. Executed | 65 | (52.4) |
| 2. Commuted | | |
| a. Paroled | 17 | (13.7) |
| b. Still Incarcerated | 15 | (12.1) |
| c. Died in Prison | 5 | (4.0) |
| Total Commutations | 37 | (29.8) |
| 3. Died Awaiting Execution | 2 | (1.6) |
| 4. Subsequently Found Not Guilty (of 1st Degree Murder) | 3 | (2.4) |
| 5. Presently on "Death Row" | <u>17</u> | <u>(13.7)</u> |
| Total Sentenced to Death | 124 | (100.0) |

As the above table indicates, 124 men have been sentenced to death since 1898. Of these 124 men, over half or 52.4% have subsequently been executed; close to 1 of every 3 have received commutations; and 13.7% are still awaiting execution. The primary focus of this report will be on the final group of men, the 17 men who are now awaiting execution at M.C.I., Walpole.

Types of Men Presently on Death Row

In Appenidx A of this report, there is a statistical profile of the 17 men who are presently incarcerated on death row. Along with information on death row men, there is also information on other convicted first degree murderers committed to Walpole between 1943 and 1966. This second group of men was included in the profile to give a broader picture of the types of men who are committed for first degree murder, as well as, to point out any differences between 1st degree murderers who are on death row and 1st degree murderers who are not on death row.

The statistical profile is separated into three general headings (i.e., background factors, criminal history, and present offense and commitment). Of the 10 variables for which comparison information was available, none yielded a statistically significant difference between the death row men and the other first degree murderers. The following

trends, however, were noteworthy:

Men on death row were more likely¹

1. to be black
2. to be married
3. to have a better education
4. to have more prior arrests

Present Offense and Commitment

The third section of the statistical profile deals exclusively with the men who are now on death row. The data presented are: the type of murder, the number of codefendants, the length of time each man has been awaiting execution, and the number of execution dates which have been set.

The information on "type of murder" presents the general circumstances within which the murder took place. Over half of the men (52.9%), committed the murder as "part of another crime". These 9 cases were robberies in which either a police officer attempting an arrest (5) or the individual being robbed (4) was murdered. The second category, "crime of passion", containing three cases, indicates that the murder was the result of an argument or family discord. The third term, "gangland slaying", refers to a single case (i.e., these four men were codefendants in a single murder). The victim in this case was murdered because it was believed he was going to give information to the police regarding crimes in the Boston area. The final case involved the murder of an individual in order to gain his insurance money.

Among the 17 men on death row, 10 committed the offense with 1 or more codefendants. In total, there were 18 codefendants: 3 received death (i.e., the gangland slaying), 1 committed suicide before sentencing, 9 received sentences of life, and 5 received sentences of a term of years.

The final variable in the section on Present Offense and Commitment presents the length of time each man has been awaiting execution and the number of execution dates that were set. In 13 of the 17 cases, the man has never had an execution date set. In these cases, the sentencing judge ordered an indefinite stay of execution until all the legal channels available to the man were exhausted. The four men, who have had execution dates set, have (for the most part) mechanically received respites from execution over the years. These respites are ordered by the Governor with the advice and consent of the Governor's Council.

Commutations

As was noted in Table I, 37 men have received commutations since 1900. Of these 37 men, 17 have been paroled, 15 are still incarcerated, and 5 have died in prison.

¹ "More likely" is defined as a difference between the samples of 15 percentage points or more.

Once a man's death sentence has been commuted, he has a good chance of ultimately being paroled. The closest approximation of this probability of parole, based on figures projected from the earlier part of the century, is approximately three-quarters.

Once paroled, men who have received commutations from a death sentence tend to be much better parole risks than the general inmate population. In fact, convicted murderers as a whole have a significantly lower recidivism rate than other offenders. Table II compares the recidivism rates after Four years (i.e., the percentage of men reincarcerated after four years) of three groups of men: (1) convicted murderers receiving the death sentence whose sentences were commuted and who were then released prior to 1967,² (2) convicted murderers receiving the life sentence who were released between 1957 and 1966, and (3) a sample of the general inmate population consisting of all men released from M.C.I., Walpole and M.C.I., Norfolk during 1960.

Table II

A Comparison of the Recidivism Rates of Convicted Murderers
and the General Inmate Population: A Four Year Follow-up

| <u>Murderers Sentenced to Death</u> | | <u>Murderers Sentenced to Life</u> | | <u>General Inmate Population</u> | |
|---|------------------------|--|------------------------|--------------------------------------|------------------------|
| <u>N</u> | <u>Recidivism Rate</u> | <u>N</u> | <u>Recidivism Rate</u> | <u>N</u> | <u>Recidivism Rate</u> |
| 15 | 13.3% | 65 | 13.8% | 518 | 58.3% |

The results indicate that convicted murderers who are released do significantly better in terms of remaining in the community than do other offenders. As Table II indicates, only 13% of the convicter murderers (both death and life sentences) were reincarcerated within four years of release, while over half (58.3%) of the general inmate population was returned within four years of their release. Of the 17 men who have received commutations and were paroled, only 3 have returned to prison, after any period of time, and none have committed a second capital offense.

Men Sentenced to Death since May of 1947

Since the last execution in Massachusetts in May of 1947, 34 men have been sentenced to death. Seventeen of these men recieved commutations (2 have been paroled and are still out; 1 died in prison). Seventeen are presently incarcerated on death row.

² One of the seventeen men died one year after release, and another was released in 1968. Thus, two of the seventeen men were not available for a four year follow-up.

Death Row at Walpole

Physically, the cells of men on death row are essentially the same as those of men in the general inmate population. The cells are located in two areas of M.C.I., Walpole. One section is located on the first floor of the isolation unit. The second section is part of the Departmental Segregation Unit. As the names of these two areas would indicate, men on death row are segregated from the general inmate population. This segregation is required by statute.

Since inmates on death row are segregated, they are limited in their capacity to participate in institutional activities. Appendix B is a description of activities currently allowed men on death row.

Problems and Costs of Death Row

It is about twice as expensive to confine a man on death row as it is to keep an inmate in the general population. That is, the yearly per capita cost of the general Walpole population is approximately \$6,000³ while the yearly cost of keeping a man on death row is approximately \$12,000.00. The primary reason for this difference is the greater degree of supervision required for men on death row.

Beyond the need for additional officers, there are problems with food conveyance and television facilities. Since death row inmates eat in their cells, food must be brought to them individually. And instead of having one television for an entire block, one television is set up between every two cells on death row.

--Edward F. Callahan
June 1, 1971

³ The latest figures available (1968) indicate that the yearly per capita cost for men confined at Walpole is \$5436.00.

Appendix A

A Statistical Profile of the 17 Men on "Death Row",
Including a Comparison with other 1st Degree Murderers

| <u>Variable</u> | <u>Death Row</u> | | <u>Other 1st Degree Murderers</u> | |
|--|------------------|----------|---------------------------------------|----------|
| | <u>N</u> | <u>%</u> | <u>N</u> | <u>%</u> |
| A. Background Factors | | | | |
| 1. <u>Age at Offense</u> | | | | |
| 24 or younger | 5 | (29.4) | 23 | (41.1) |
| 25-30 | 6 | (35.3) | 12 | (21.4) |
| 31 or older | 6 | (35.3) | 21 | (37.5) |
| | Median age = 28 | | | |
| 2. <u>Race</u> | | | | |
| White | 11 | (64.7) | 45 | (80.4) |
| Black | 6 | (35.3) | 11 | (19.6) |
| 3. <u>Marital Status</u> | | | | |
| Single | 5 | (29.4) | 36 | (64.3) |
| Married | 9 | (52.9) | 5 | (8.9) |
| Div., Sep., Wid. | 3 | (17.6) | 15 | (26.8) |
| 4. <u>Education</u> | | | | |
| 8th grade or less | 7 | (41.2) | 33 | (58.9) |
| 9th grade or more | 10 | (58.8) | 23 | (41.1) |
| 5. <u>Military Service</u> | | | | |
| Never served | 9 | (52.9) | 34 | (60.7) |
| Honorable discharge | 4 | (23.5) | 11 | (19.6) |
| Other than honorable | 4 | (23.5) | 11 | (19.6) |
| B. Criminal History | | | | |
| 1. <u>Age at 1st Arrest</u> | | | | |
| 14 or younger | 6 | (35.3) | 24 | (42.9) |
| 15 or older | 11 | (64.7) | 32 | (57.1) |
| 2. <u>Number of Prior Arrests</u> | | | | |
| None | 0 | | 10 | (17.9) |
| 1-5 | 7 | (41.2) | 24 | (42.9) |
| 6 or more | 10 | (58.8) | 22 | (39.2) |
| 3. <u>Prior State or Federal Commitments</u> | | | | |
| None | 8 | (47.1) | 32 | (57.1) |
| 1 or more | 9 | (52.9) | 24 | (42.9) |

| <u>Variable</u> | <u>Death Row</u> | | <u>Other 1st Degree Murderers</u> | |
|---|------------------|----------|---------------------------------------|----------|
| | <u>N</u> | <u>%</u> | <u>N</u> | <u>%</u> |
| 4. <u>Prior House of Correction Commitments</u> | | | | |
| None | 8 | (47.1) | 30 | (53.6) |
| 1 or more | 9 | (52.9) | 26 | (46.4) |
| 5. <u>Total Prior Penal Commitments</u> | | | | |
| None | 5 | (29.4) | 23 | (41.1) |
| 1 or more | 12 | (70.6) | 33 | (58.9) |

C. Data on Present Offense and
Commitment ("Death Row" only)

- Type of Murder
Murder took place
as part of another
crime 9 (52.9)
Crime of passion 3 (17.6)
Gangland slayings 4 (23.5)
Other 1 (5.9)
- Codefendants
None 7 (41.2)
1 or more 10 (58.8)
- Length of Time on "Death Row"
and No. of Execution Dates Set

| <u>Date Sentenced</u> | <u>Time on "Death Row"</u> <u>(As of 5/71)</u> | | <u>Number of Execution Dates Set</u> |
|-----------------------|---|---------------|--|
| | <u>Years</u> | <u>Months</u> | |
| 9/23/61 | 9 | 8 | 12 |
| 12/17/63 | 7 | 6 | 8 |
| 1/21/64 | 7 | 4 | 0 |
| 1/28/64 | 6 | 4 | 4 |
| 3/18/64 | 6 | 2 | 0 |
| 10/26/65 | 5 | 7 | 4 |
| 10/4/66 | 4 | 7 | 0 |
| 4/18/67 | 4 | 1 | 0 |
| 3/20/68 | 3 | 2 | 0 |
| 7/31/68 | 2 | 10 | 0 |
| 7/31/68 | 2 | 10 | 0 |
| 7/31/68 | 2 | 10 | 0 |
| 7/31/68 | 2 | 10 | 0 |
| 1/31/69 | 2 | 4 | 0 |
| 6/11/70 | | 11 | 0 |
| 9/10/70 | | 8 | 0 |
| 2/16/71 | | 3 | 0 |

Appendix BCurrent Activities Allowed Men Confined on
Death Row at Mass. Correctional Institution, Walpole

Exercise: From 8:30 A.M. until 3:00 P.M., except for dinner hour. Exercise is held either in the gym or in the yard, depending on the weather. Exercise is also allowed for one hour after supper in the corridor. The exercise area in the yard contains a basketball hoop, badminton and handball courts and room to enjoy the footballs, baseballs and gloves that are made available. In the gym they also have the use of a completely outfitted weightlifting room.

Visits: Visits are allowed on any day of the week in the regular visiting room. These visits are from a minimum of one hour to two and a half hours in duration. These visits are restricted to members of their immediate families. At least two visits a week are allowed. These visits are allowed in a family style setting, with no screens or other barriers between the inmate and his visitors. Special visits for men with children are permitted.

Television: The State supplies a large television set for each two inmates, (both can watch it simultaneously), and a two channel radio with earphones. In addition, inmates on Death Row may, if they desire, purchase an AM-FM radio and/or a portable television for their rooms. These two items must be purchased through the institution, which charges less than the normal retail price.

Typewriters: The institution supplies six typewriters for the use of the inmates on Death Row. These men are also allowed to purchase their own typewriters, if they so desire.

Pay: Men on Death Row are paid the same as inmates in the general population.

Library: The institution library is available to all men on Death Row, and on special request they may have books picked up at either the Walpole or Boston Public Libraries.

Education: Correspondence courses in many fields are available and, if needed, the assistance of the institution staff is available.

Food: All men on Death Row receive the regular meals served to the institution population. In addition, they enjoy full canteen privileges, where in addition to cigarettes and toilet articles they may purchase a wide variety of foods and sweets. The State also provides several hot plates for these inmates to heat the coffee and food which they purchase at the canteen.