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WHY WAS CAPITAL PUNISHMENT RESTORED IN DELAWARE?*

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The purpose of this study was to determine whether the abrupt passage of a law to restore the death penalty for conviction for first degree murder encouraged the decrease of the annual rate of murder in the State of Delaware. The results reveal that the annual rate of criminal homicide was higher after the restoration of the death penalty than during the abolition period.

The restoration of capital punishment did not serve as a deterrent to criminal homicide.

On December 14, 1961, the Delaware State Senate voted twelve to two to override the Governor's veto of December 12, 1961 to restore the death penalty for murder in the first degree.¹ Four days later, on December 18, 1961, the Delaware House of Representatives joined the Senate and by the margin of one vote made Senate Bill No. 192 the law of the State. Thus, after three years, eight months and sixteen days capital punishment by hanging returned to Delaware.

Why was this action taken by the Legislature without a public hearing and in spite of the Governor's veto? Was it a means to deter the annual number of murders or was it a hasty action to seek revenge for those who might be convicted of future brutal murders?

This paper attempts to determine if the abolition of the death penalty had weakened deterrence and therefore justified the Legislature's action. If the annual rate of murder decreased after the restoration of the death penalty, the vote could be defended.

METHOD

Official police arrest records were unobtainable because of certain legal restrictions. Instead, commitment records located at the Records and Statistical Department of the Delaware Department of Corrections located at New Castle Correctional

Institution were examined to obtain the needed information. The data included the commitment number, name, date of admission for those committed for manslaughter and murder who were being held for inquest by the grand jury, and, if indicted, to be tried in Superior Court. The study covered a ten year period, July 1, 1956 to June 30, 1966. Murder-suicides were excluded since they were apparently very rare and it was difficult to obtain this information. Furthermore, the death penalty would have had no deterrent effect on a person who would end his own as well as someone else's life. Seven homicides by unknown offenders were also excluded.

The study deals with persons accused of homicide or homicides. In this research, every offender charged and committed was included, whether the homicide event included one offender and one victim, one offender and more than one victim, more than one offender but only one victim, or possibly more than one offender and more than one victim. Therefore offenders are the primary concern of this study.

The date of the commitment and not the date of the homicide event was the date used. In a sample survey of 44 individuals who were committed on a murder charge, it was found that half were committed on the day of the homicide, 16 one day later and the remainder within two to five days.

RESULTS

Table 1 shows the number of those originally charged with manslaughter or murder. The annual number of manslaughter commitments are included only for comparison purposes.

* This article is a revision of a paper delivered at the Pennsylvania Sociological Society Annual Meeting held in November, 1967, at Pennsylvania State University, University Park, Pennsylvania.

¹ On April 2, 1958, the Legislature voted to abolish the death penalty for five capital crimes: rape, kidnapping, treason, wilful or malicious wounding or poisoning where death ensued within one year, and murder in the first degree.

TABLE 1
NUMBER OF COMMITMENTS TO DELAWARE CORRECTIONAL INSTITUTIONS FOR MANSLAUGHTER AND MURDER

Year July 1-June 30	Manslaughter	Murder	Total
1956-57	11	28	39
1957-58	7	17	24
(Abolition—April 2, 1958)			
1958-59	8	12	20
1959-60	4	14	18
1960-61	7	15	22
1961-62	4	14	18
(Restoration—December 18, 1961)			
1962-63	8	14	22
1963-64	6	15	21
1964-65	5	23	28
1965-66	21	19	40
	—	—	—
	81	171	252

No distinction on the commitment entries or in this study is made for murder in the first or second degree since this difference is rather tenuous.

An increase or decrease in population may influence the annual rate of murders. Tables 2 and 3 indicate the relationship of population variations and commitment results.

TABLE 2
1950 AND 1960 POPULATION OF DELAWARE COUNTIES AND POPULATION PERCENTAGE INCREASE

County	1950	1960	Percentage Increase
Kent.....	37,870	65,651	73.4%
New Castle....	218,879	307,446	40.5%
Sussex.....	61,336	73,195	19.3%
Total.....	318,085	446,292	40.3%

TABLE 3
COMPARISON OF PERCENTAGE OF MURDER COMMITMENTS BY COUNTIES DURING 1956 AND 1966 WITH PERCENTAGE OF THE 1950 AND 1960 POPULATION

County	Murder Commitments July 1, 1956- June 30, 1966		Population Percentage	
			1950	1960
Kent.....	23	13.5%	12.0%	14.7%
New Castle....	109	63.7%	68.8%	68.9%
Sussex.....	39	22.8%	19.2%	16.4%
Total.....	171	100.0%	100.0%	100.0%

The estimated population as of July 1, 1956, for the State of Delaware was 402,000, and for July 1, 1965, 505,000.

Table 3 reveals a reasonably consistent comparison of the percentage distribution of the number of murder commitments during 1956 to 1966 with the population percentage for each county as of 1950 and 1960.

Population changes did not influence the percentage distribution of murder commitments appreciably.

The annual average number of murder commitments for the ten year period between July 1, 1956 to June 30, 1966 was 17.1. If abolition encouraged more murders, a higher than 17.1 annual rate of murder commitments should occur during the abolition period than before or after.

During the 21 months before abolition, 40 murder commitments occurred or a rate of 22.8 per year, 5.7 above the 10 year annual rate of 17.1. The annual rate prior to abolition was 9.0 higher than the rate during abolition (22.8 — 13.8 = 9.0). (See table 4.)

The 44.5 months during abolition involved 51 participants or an annual rate of 13.8 murder commitments or 3.3 below the 10 year average.

During the 54.5 months after the restoration of the death penalty, 80 murder commitments occurred or a rate of 17.5 per year, .4 per year higher than the 10 year average and 3.7 higher than the annual rate during abolition (17.5 — 13.8 = 3.7).

From the results of this study, the restoration

TABLE 4
ANNUAL RATE OF MURDER COMMITMENTS BEFORE, DURING AND AFTER ABOLITION OF THE DEATH PENALTY

	Before Abolition	During Abolition	After Restoration	Totals
	Jul. 1, '56- Apr. 2, '58	Apr. 3, '58- Dec. 18, '61	Dec. 19, '61- June 30, '66	
Number of Months.....	21	44.5	54.5	120
Number of Murder Commitments...	40	51	80	171
Murder Commitments Per Month.....	1.9	1.15	1.46	1.42
Murder Commitments Per Year.	22.8	13.8	17.5	17.1

of capital punishment for first degree murder apparently did not act as a deterrent. The return of the death penalty was primarily a reaction to four well publicized brutal murders in southern Delaware.

On June 10, 1961, Mrs. Ida Mae Wilkins, a well-known and highly respected 89 year old widow was badly beaten, allegedly raped and stabbed to death in Georgetown, Delaware, the rural county seat of Sussex County. Three days later, Russell L. Purnell, a 25-year-old Negro, confessed to the crimes and was taken to the New Castle Correctional Institution in the northern part of the state as a precautionary measure. Purnell, a Seaford Poultry plant worker and a former inmate at the Sussex Correctional Institution, was convicted of first degree murder and is now serving a life term.

On June 13, 1961, Mrs. Leland Money, a prominent woman from Middletown, Delaware, was killed by a shotgun blast while preparing food in her kitchen. This homicide remains unsolved.

These two murders undoubtedly led to the first passage of Senate Bill 192 on June 14, 1961 to restore the death penalty for first degree murder. This action was branded by Senator James H.

Snowden of Wilmington as "panic legislation" based on emotion and revenge.

On October 31, 1961, Mr. and Mrs. Lorenzo Whaley, an elderly couple, were shot to death on a farm seven miles from Laurel, Delaware. Kermit West, a 25-year-old Negro laborer, pled guilty to first degree murder on two charges and was sentenced to life imprisonment on September 14, 1962. West had been released from the Sussex Correctional Institution about four months before the time of the two murders after having served three years of a four-year sentence for a brickbat assault on Mr. Whaley.

It is clear that the Legislature acted in haste to restore the death penalty for murder in the first degree as a result of these "particularly revolting crimes." Herbert L. Cobin, who was then the chairman of the Governor's Committee for a State Correctional Program, believes that an important factor in restoration of capital punishment was the impact of the killing of the three elderly white persons, two of them women, by young Negroes at the very time when racial tension was high because of the desegregation movement in the school system, a strong demand from Negroes for anti-discrimination and civil rights laws, and "action" and "sit-in" groups seeking to desegregate restaurants in lower Delaware.²

A second reason, Cobin reports, was that the more rural southern counties of the state held a disproportionate voting strength in the Legislature and favored restoration of the death penalty.

The adjudication of the 171 persons who were originally charged with murder and committed is found in Table 5.

The four inmates awaiting trial for murder in the first degree as of June 30, 1966, listed in Table 5, have since been convicted of a lesser charge.

Out of the 80 offenders who were originally committed on a murder charge after restoration of the death penalty, December 18, 1961 to June 30, 1966, (see Tables 4 and 5), only two persons were sentenced to the gallows; Norman B. Parson and Thorton A. Jenkins. However, Parson has been granted a retrial and Jenkins has already been convicted on a lesser charge. These cases will briefly be explained.

On February 1, 1964, Norman B. Parson, a 24-year-old Negro male trash collector, was committed to Sussex County Correctional Institution

TABLE 5

ADJUDICATION OF PERSONS COMMITTED TO DELAWARE
CORRECTIONAL INSTITUTIONS FOR MURDER
JULY 1, 1956, TO JUNE 30, 1966.

	Sentence Life	Sentence Death	Await- ing Trial	Com- mitted Depart- ment Mental Health	Total
Murder-First Degree					
Indicted.....	—	—	4	2	6
Indicted, tried, & sentenced..	7	2	—	—	9
Murder-Second Degree					
Indicted.....	—	—	4	—	4
Indicted, tried, & sentenced..	17	—	—	—	17
Total.....	24	2	8	2	36
Not indicted, reduction from original murder charge to lesser charges, acquittal, awaiting trial, etc.....					135
Total originally charged and committed for murder.....					171

² See Cobin, *Abolition and Restoration of the Death Penalty in Delaware*, in THE DEATH PENALTY IN AMERICA 372 (Bedau ed. 1964).

on the charge of the murder in a sexual assault of a 16-year-old white female who was baby-sitting when the homicide occurred. After the indictment of the murder in the first degree, the trial was held in Superior Court. On January 19, 1965, the petit jury returned a verdict of guilty of the charge. On May 13, 1965, Parson was sentenced to death by hanging to take place on July 16, 1965. However, a stay of execution was ordered by the judge on the same day of the sentencing.

An appeal by Parson's attorneys to the State Supreme Court has been rejected and the United States Supreme Court has refused to review the case. However, on February 23, 1968, the United States District Court, Third Circuit, ordered a retrial of the case. Three of the four psychologists and psychiatrists who examined Parson before his pretrial have since died, and Parson's two lawyers have requested to be excused from the case.

On March 18, 1965, Thorton A. Jenkins, a 38-year-old Negro male, and Clifford Warner, a 34-year-old Negro male were committed to the New Castle Correctional Institution on a charge of the murder by beating of a white night watchman in a junk yard in Wilmington, of burglary, and of night prowling. Both men were indicted by the grand jury on two counts, murder in the first degree and burglary in the fourth degree.

On January 13, 1966, the petit jury returned a verdict of guilty for Jenkins of murder in the first degree with the recommendation of mercy and guilty of burglary in the fourth degree.

Although the jury recommended mercy, on March 18, 1966, the trial judge disregarded the recommendation and sentenced Jenkins to death by hanging for the first degree murder conviction and to five years imprisonment for the burglary

conviction. The date of execution was set for April 15, 1966; however, on March 28, 1966, a stay of execution was ordered by the Supreme Court pending a review of the case.

The Supreme Court upset the conviction, holding that circumstantial evidence produced by the prosecution was insufficient to support first degree murder. Jenkins was retried and was convicted on a second degree murder charge and was sentenced on October 14, 1967 to a mandatory life sentence to start after the completion of a five year burglary sentence which began on the date of commitment, March 18, 1965. On March 8, 1968, the Supreme Court upheld the second murder trial conviction.

Warner's case was also reviewed. His original sentence of life imprisonment for the second degree murder conviction and to five years imprisonment on the burglary conviction was upheld.

CONCLUSION

The main purpose of this study was to determine if, in the State of Delaware, from the analysis of those committed to one of the three correctional institutions on a murder charge during a ten year period, a decrease in the annual rate of criminal homicides would occur after the restoration of the death penalty compared with the rate during the abolition period. Actually, the annual rate of murder commitments proved to be higher before and after than during abolition. These results support the claim of those who favor abolition of the death penalty that the presence of this penalty does not serve as a deterrent to criminal homicide. Nor has the restoration of capital punishment been effective as a means of retribution since no one has actually been executed since the restoration.