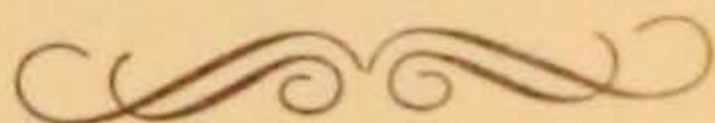


**Is There Any  
Penalty  
in the  
Death Penalty?**

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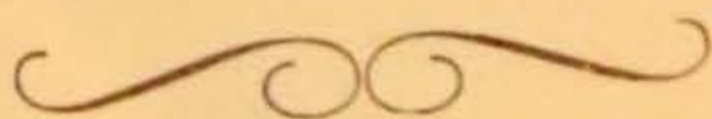
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# Is There Any Penalty in the Death Penalty?

by

Walter A. Lunden

Department of Sociology and Anthropology  
Iowa State University of Science  
and Technology

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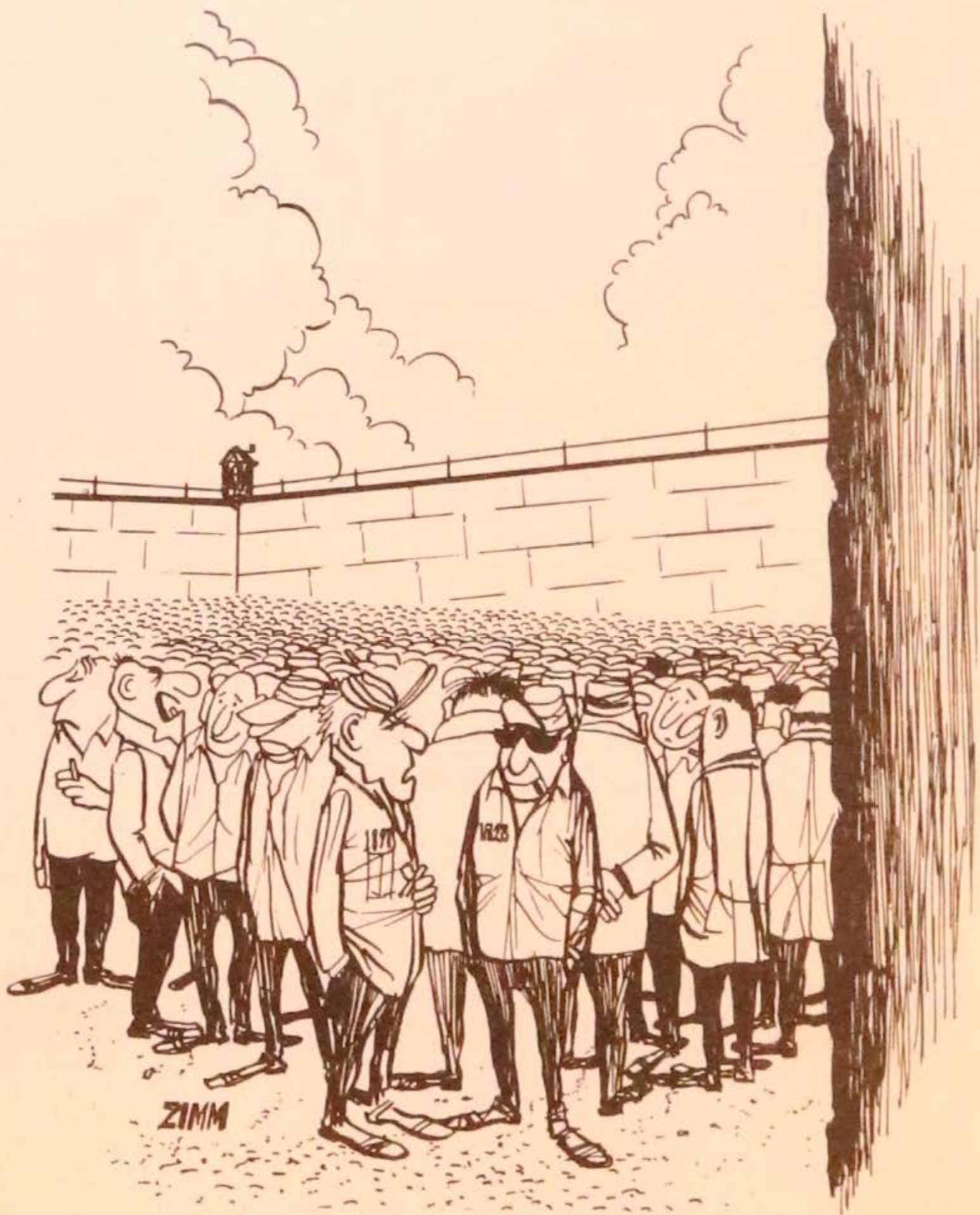
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*"Things Must Be Quiet On The Outside"*

ZIMM — from THE PRESIDIO

## PREFACE

The rapid rise of violent crimes in the United States has caused serious concern among citizens. In not a few quarters people have begun to question certain treatment policies of prisoners in correctional institutions. Some have strongly suggested that capital punishment should be used more and restored in those states where it has already been abolished.

In recent years homicide rates have been decreasing in Egypt, France, Italy, Japan and Finland and remained about the same in other European countries. Whether the rehabilitative methods used in the prisons of the nation and the decreased use of executions will continue may depend on the turn of events. Past situations have shown that when a people have been confronted with a serious crisis they have returned to more severe penalties and the wider use of the death penalty. Whether the present increase in crimes, especially assassinations, will cause people to demand heavier penalties depends on whether the country has reached what has been known as the "saturation point in criminality," an amount of crime serious enough to threaten the stability of the nation. If or when that point has been reached people may turn to more retributive methods in dealing



with offenders and the removal of rehabilitative treatment programs.

The primary purpose of this short monograph is to present a limited amount of factual information relative to crimes of violence and the current judicial and correctional practices within the nation.

Walter A. Lunden

March 1, 1969

Ames, Iowa

## INTRODUCTION

In primitive societies a "man-slayer" (murderer) was killed by the "avenger of blood", a member of the victim's family. The death penalty or capital punishment was, therefore, carried out under a system of family justice or vengeance in which the state took no part. Among the Teutonic tribes of Europe a murderer's family could be forced to pay a certain amount to the victim's family in proportion to the rank of the individual. In the 18th Century English courts were empowered to substitute deportation to Penal Colonies in place of execution. By the end of the century capital punishment was used for a wide number of crimes. Because of the indiscriminate application of the law individuals began to question the use of the death penalty except for capital crimes. Some of the extreme advocates maintained that society had no right to take the life of an offender under any circumstances. With the rise of the Humanitarian movement in the 19th century groups and organizations favored the total abolishment of capital punishment.

Most of the arguments against capital punishment fall into six main reasons.

1. RELIGIOUS; The death penalty by its suddenness deprives the offender of time for repentance and opportunity for salvation.
2. MEDICAL AND PSYCHOLOGICAL; Any person who commits murder is non-rational or insane and, therefore, not responsible for his acts.
3. LEGAL; The death penalty is final and cannot be altered. There is great risk that an innocent person may be put to death.



4. SOCIAL; The death penalty is used in such a small number of cases that it does not deter others from committing crimes.
5. MORAL; Capital punishment makes reformation and restitution impossible.
6. CULTURAL DETERMINISM. Because of the culture in which a person lives determines how he shall act, he is not responsible for his own action. In reality society is to blame for what a man does.

In opposition to these reasons those who hold to the continuance of the death penalty maintain that society must defend itself against those who disregard the life of others. Society punishes the murderer to make certain that such actions shall always be considered abhorrent to all men. Without the death penalty no one would know whether a capital crime were "good or bad". It is based on the right of social defense for the common good.



*New Era*

## THE PENAL POLICY OF THE COURTS

Any attempt to interpret the use or the non-use of the death penalty must first deal with the larger question of punishment. Why does a court condemn or sentence an offender? Why does the court administer punishment? In other words, why do we have punishment? The answer to these questions, in so far as they can be answered, must be explained in the very nature of society.

In reality the court or the judge is but the objectification of the long time thinking or ethical impulses of a people or a community. The court or judge in pronouncing sentence does individually what the people want collectively. In reality, the court does what the legislature has ordered which in turn is what the people deem sound practice. In reality, the court dispenses the "Justice" which the community has created. The penal theory of a court is, therefore, but the essence of the people's sanctions, approvals and disapprovals. These in time become the law which is a social force supported by the emotional and ethical convictions. Herbert Spencer indicated that law, is the "hardened form of custom" which "formulates the rule of the dead over the living."

What then is the theory of punishment which lies behind the thinking of the people? As a primary consideration it should be made clear that when a people are confronted with a threat to security by the commission of a crime they act first and then attempt to find a reason later which arises from past experiences. The English jurist Sir James Stephen stated that "criminals should be hated, that the punishment inflicted upon them should be so contrived as to give expression to that hatred."



When, therefore, a judge pronounces a sentence on an offender he is striking back at one who has disturbed the emotional and ethical senses of a people. Above and beyond this "striking back" against the offender lies a considerable amount of confusion as to why society punishes the wrong doer. Furthermore, it appears that at present, penal policy has reached a cross-road and the direction from this point is not clearly defined.

In the past courts have punished offenders because the community has demanded "retribution" or "retaliation" without any further consideration. A crime represents or is an act of aggression which is met with counter aggression—punishment of some type. There appears to be no reasoned theory behind this counter aggression except that of instinctive impulse to danger. Some authorities have considered punishment as having a deterrent influence upon other possible offenders. A man was punished, not for his crime, but to prevent others from doing the same thing. The court, therefore, looked to the future and not to the past deeds of the offender. Quite another principle of punishment follows from the idea of containment i. e., the offender is an outlaw who must be kept from harming others. The man who has his tongue cut out can no longer deceive others and the thief who has his arm cut away can not put a hand into another man's pocket.

The real issue in present day penal theory arises from more recent developments which flow from the ideas of humanitarian rehabilitation. In other words men are punished or imprisoned in order to remake them and not because of vengeance, deterrence or containment. Rehabilitation

assumes that the offender must be treated by some kind of psychology or social surgery, (therapy), in such a manner as to develop or reorganize the better part of his personality. Hence, a man is sentenced to prison for the same reason that others are sent to hospitals or to be treated for a psychological or social ailment.

Just how much of the theory of rehabilitation the general public will accept as an adequate substitute for punishment remains to be seen. Some have assumed that any amount of rehabilitation flies in the face of reality because, "a leopard cannot change his spots" and "out of a pig's ear you cannot make a silk purse." Again, rehabilitation may be a part of present day wishful thinking which stems from the environmental explanation of anti-social behaviour. Again, rehabilitation is but another form of "friendly" or moral persuasion which may be too ideal for our fragmented society. No amount of moral influence will change the nature of "a snake" or "a wild beast." Furthermore, rehabilitation implies that men are basically good and that there are no "real bad men." In answer to all efforts of rehabilitation the hard cold voice of experience says, "two-thirds of all the men in prison and two-thirds of those sentenced each year have been there before. They are what they are and you cannot change them."

Whether "friendly" persuasion, psychological or social surgery will be accepted as ways of dealing with offenders on the part of the community depends on many factors. The residues of past judgments or the long time sentiments of a people cannot be disregarded without serious objections. Speakers at conferences may explain rehabilitation and the listeners may



tacitly agree but when the same people are confronted with the realities of a serious crime in a community, well phrased speeches disappear into thin air and the deep rooted sentiments arise to take over decisions.

Whether the humanitarian nature of rehabilitation or "friendly" persuasion will gain or lose ground depends on how much criminality a society or community will stand or tolerate before it reaches a saturation point. If rehabilitation can prove its worth by reducing crime and recidivism without destroying social solidarity, experience may give it a "hearing" in court. However, it should be made clear that the most advanced ideas in rehabilitation have not dared to break with tradition based on retaliation. Some of the most "enlightened" criminal codes in Europe in the past half century have never been enacted. Retributive justice or retaliation is deeply imbedded in morals and customs which maintains a "wage" should be paid for normal or good conduct and for anti-social behaviour. It does appear that society has set barriers to rehabilitative programs beyond which men may not go without breaking the solidarity and stability which hold a community together. Whatever justice the courts may dispense in the future will no doubt be tempered by the iron rod of "wages."

This very brief analysis of the death penalty and factors associated with it makes no attempt to suggest policy in the administration of criminal justice. Here it should be made clear that if capital punishment were abolished by organized groups inside or outside legislative halls the fundamental problems of criminal justice will not be resolved. Society is still confronted with the basic issue of what to do with the serious offence, the outlaw or the criminal. If the death penalty is abolished

those who advocate abolishment may take their ease forgetting that the offender must remain in prison for life or a given number of years. In 20 years an inmate may have died a "thousand deaths". Behind the walls of a prison the felon becomes a "Nobody". Biologically and physically he may be alive but socially he is "dead". Those who advocate the abolishment of the death penalty would do well to come to grips with the real issue of what happens to men beyond and behind the gates and the walls of every prison in the nation.



## CIVIL EXECUTION IN THE UNITED STATES, 1930-67

In spite of the fact that the death penalty may be imposed for murder in 38 states, for killing under certain conditions, and other violent crimes, the actual number of executions in the nation has gradually decreased in the past four decades. From the highest number of 199 in 1935, during the Great Depression, the annual number fell to only one case in 1966 and then rose to 2 the next year.

Of the total executions (3,859), 1,751 or 45.5 percent of the felons were white and 2,108 or 54.6 percent were non-white. Less than one percent of those executed were women, only 32 cases.

As of 1967, nine states had abolished the death penalty and 4 states may impose it for certain crimes. Executions are carried out by electrocution in 23 states, by lethal gas in 10 states, by hanging in 8 states, and by either hanging or shooting in one state. The Table 1 and Chart 1 show the annual number of executions from 1930 to 1967 and this map the number by states.

Table 1

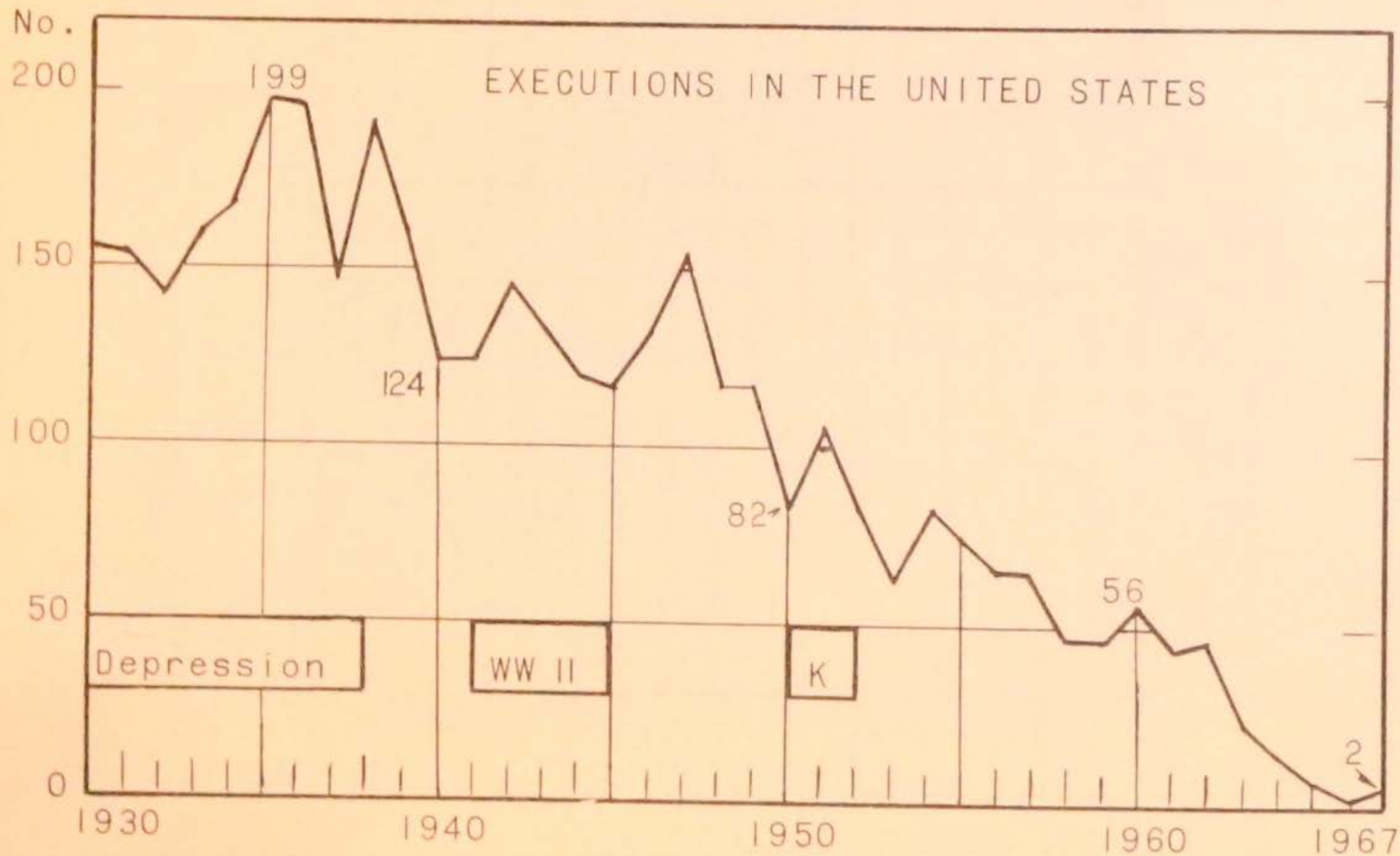
EXECUTIONS UNDER CIVIL AUTHORITY  
IN THE UNITED STATES, 1930-67  
(ALASKA AND HAWAII NOT INCLUDED FOR 1930-59)

Year	Total	White	Non-white	Year	Total	White	Non-white
1930	155	90	65	1950	82	40	42
1931	153	77	76	1951	105	57	48
1932	140	62	78	1952	83	36	47
1933	160	77	83	1953	62	30	32
1934	168	65	103	1954	81	38	43
1935	199	119	80	1955	76	44	32
1936	195	92	103	1956	65	21	44
1937	147	69	78	1957	65	34	31
1938	190	96	94	1958	49	20	29
1939	160	80	80	1959	49	16	33
Total	1667	827	840	Total	717	336	381
1940	124	49	75	1960	56	21	35
1941	123	59	64	1961	42	20	22
1942	147	67	80	1962	47	28	19
1943	131	54	77	1963	21	13	8
1944	120	47	73	1964	15	8	7
1945	117	41	76	1965	7	6	1
1946	131	46	85	1966	1	1	
1947	153	42	111	1967	2	1	1
1948	119	35	84	1968			
1949	119	50	69	1969			
Total	1284	490	794	Total	191	98	93
				Grand Total	3859	1751	2108
				Percent	100.0	45.4	54.6

Source: National Prisoner Statistics, Bulletin, No. 42, 1930-67, June 1968.  
U.S. Department of Justice, Bureau of Prisons, p. 7.



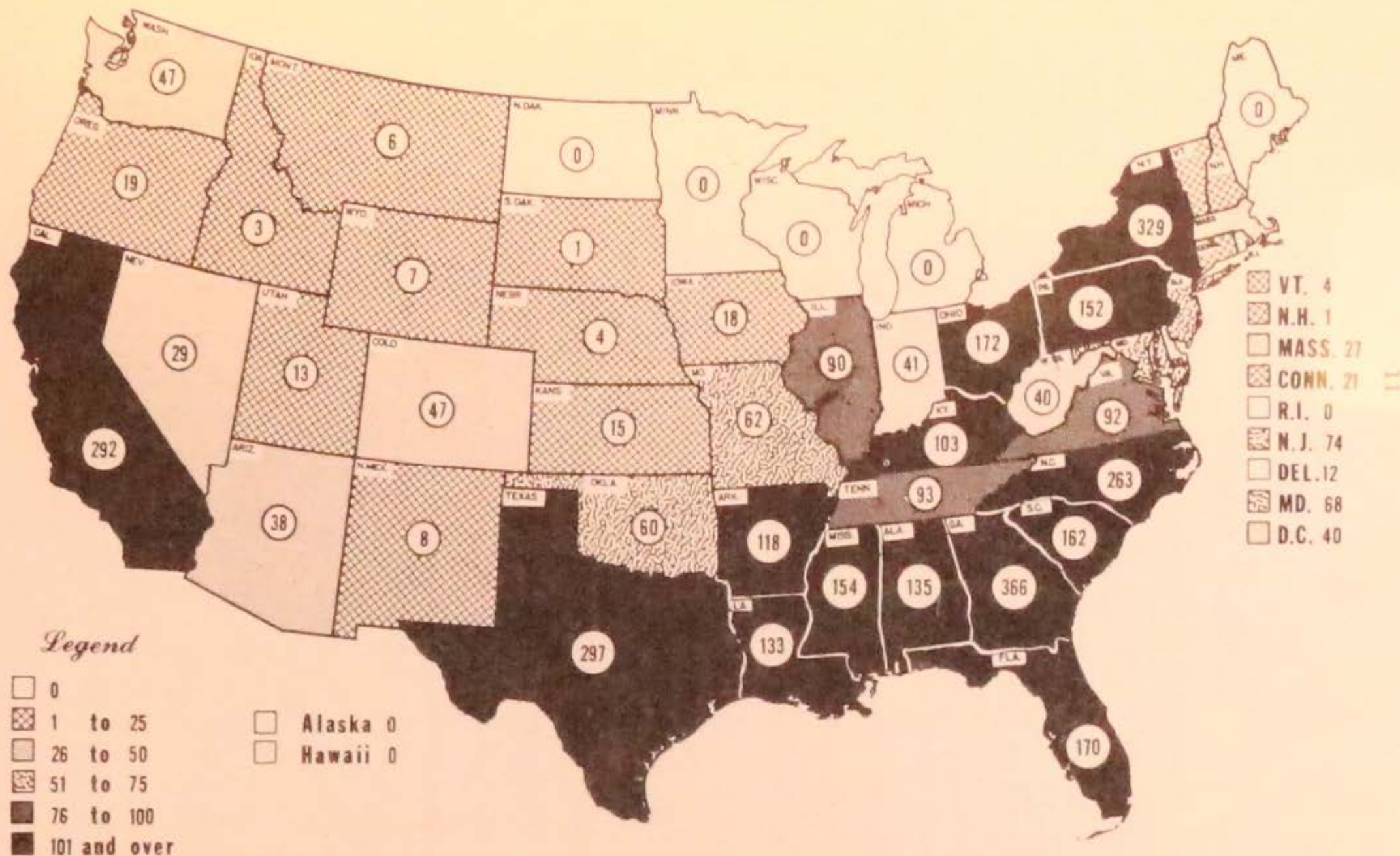
Chart 1



10

EXECUTIONS 1950 — 1967

Prisoners Executed Under Civil Authority In The United States, By State



NOTE: Excludes 33 Federal executions carried out in the United States during the period covered.

Source: National Prisoners Statistics Bulletin No. 42, 1967, p. 4.



### CRIMES OF VIOLENCE AND EXECUTIONS

While crimes of violence, murder and rape, increase in the nation, executions decrease and more death sentences are commuted or reversed.

#### VIOLENT CRIMES, 1960 TO 1967

From 1960 to 1967 murders increased from 9,000 to 12,100 in the United States or a rise of 34 percent. Murder rates advanced from 50 to 61 per million inhabitants or by 22 percent. Cases of rape rose from 16,800 to 27,100 or by 68 percent and the rates increased from 94 to 137 per million or by 45.7 percent.

#### DECREASE IN EXECUTION, 1960 TO 1967

In the same years, 1960 to 1967, civil executions of felons in the nation declined from 56 to only 2 in the final year. In these eight years 191 felons were executed, 155 had been convicted of murder, 25 of rape and 8 for other violent crimes. In eight years murders and rape cases have risen but executions have decreased.

TABLE 2

EXECUTIONS AND CRIME RATES PER 1,000,000 FOR  
MURDER AND RAPE IN THE UNITED STATES, 1960-67

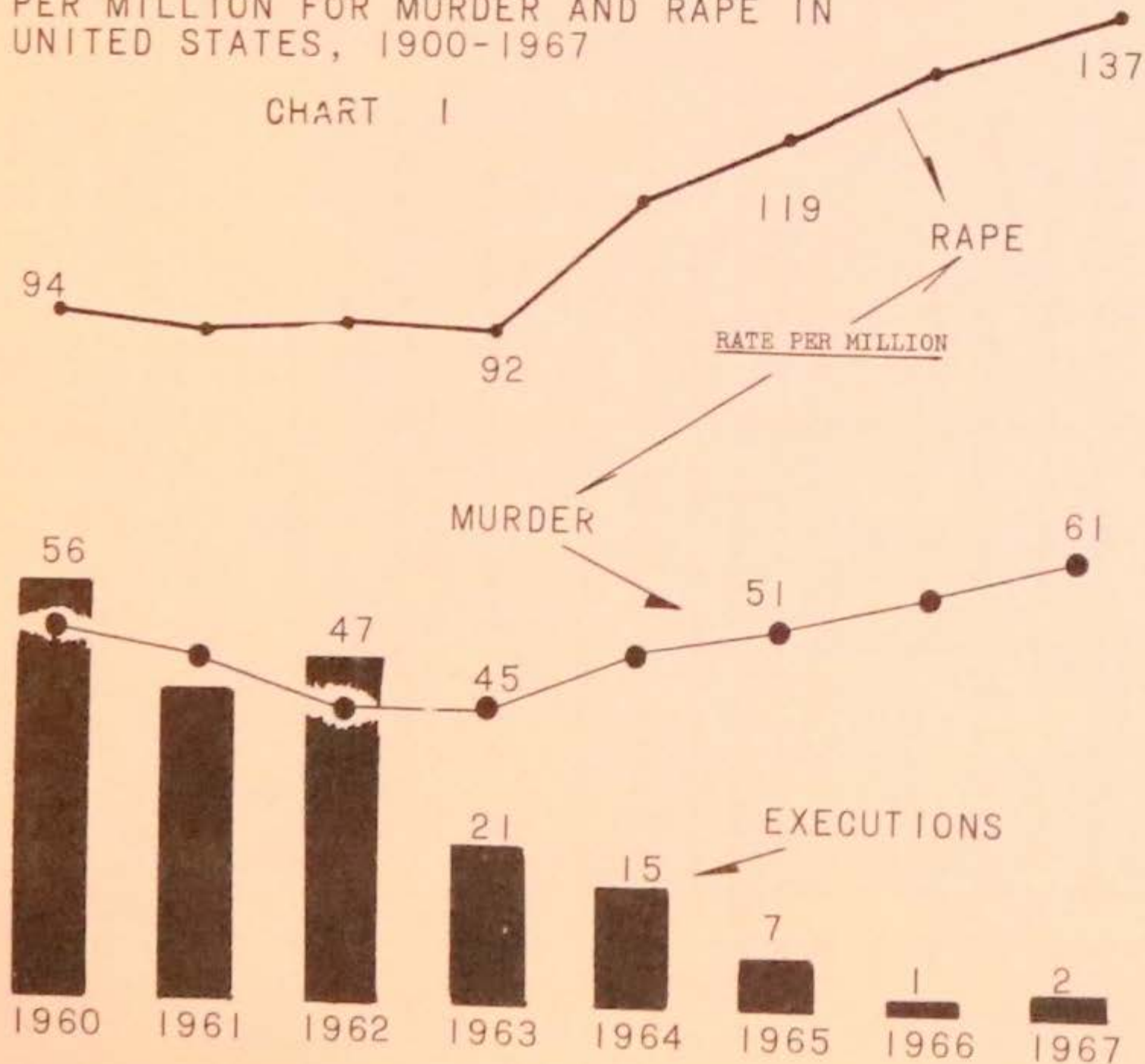
Year	Executions (1)	Rates per 1,000,000 for	
		Mur. (2)	Rape (2)
1960	56	50	94
1961	42	47	92
1962	47	45	93
1963	21	45	92
1964	15	48	110
1965	7	56	119
1966	1	56	129
1967	2	61	137
Percent change--		+22.0	+45.7

Sources: (1) National Prison Statistics, NFS Bulletin #42, 1968, p 7.  
(2) Crime in The United States, Uniform Crime Reports, 1967, F. B. I., p 61.



NUMBER OF EXECUTIONS AND CRIME RATES  
PER MILLION FOR MURDER AND RAPE IN  
UNITED STATES, 1900-1967

CHART I



## CRIMES WHICH MAY RESULT IN DEATH SENTENCES

The death penalty may be imposed in the respective states for 15 major crimes and certain offenses against Federal Law. Of the 50 states, 38 states may impose the death sentence for murder; 31 for kidnaping of a minor; 20 for treason; 17 for train wrecking and robbery; 16 for rape (14 of the states are in the South); 15 for killing in a duel and 10 for perjury of witness causing death and execution. In two states the death sentence may be imposed for killing of women in abortion.

Table 3

CRIMES FOR WHICH DEATH SENTENCE  
MAY BE APPLIED BY NUMBER  
OF STATES, 1967

Crime	Number of States
1. Murder	38
2. Kidnaping of Minor	31
3. Treason	20
4. Train Robbery and Wrecking	17
5. Rape	16
6. Killing in Duel	15
7. Perjury of Witness (1)	10
8. Lynching	8
9. Aggravated Robbery (2)	7
10. Arson Causing Death	6
11. Killing by Prisoner	6
12. Homicide in Riot	4
13. Dynamiting -- Death (3)	4
14. Attempt to Kill Chief Executive	3
15. Killing by Abortion	2

(1) Perjury or corruption of a witness causing death and execution.

(2) An armed robbery and burglary.

(3) Causing death or danger of death.

Note: Federal Laws include seven offenses and espionage, sale or narcotics to minors and assassination.

Source: Summarized from National Prison Statistics, No. 42, 1948, Executions, 1930-67, p. 31.



CRIMES OF EXECUTED FELONS, 1930-67

In the 38 years from 1930 to 1967 a total of 3,859 persons have been executed in the United States, 3,826 by state and 33 by Federal authority. In the same years the Army and the Air Force executed 160 men, 106 for murder, 53 for rape and one for desertion. There have been no executions in the Navy since 1849.

Of the executed 3,334 or 86.4 percent of the 3,859 felons were convicted of murder, 455 or 11.4 percent of rape and 70 for other crimes such as armed robbery, kidnaping, sabotage, aggravated assault and espionage.

Table 4

CRIMES OF EXECUTED FELONS, 1930-67

Crime	Number	Percent
Murder	3,334	86.4
Rape	455	11.4
Others	70	1.8
Total	3,859	100.0

## FELONS SENTENCED TO DEATH 1960 TO 1967

The decrease in executions has not been due to the decline in the number of offenders sentenced to death by the courts in the nation. In the eight years from 1960 to 1967 the courts sentenced 848 felons to death and committed them to prisons where they waited disposition in Death Row. In these same eight years 191 felons were executed. Not all of these were included in these sentenced because of the time lapse between sentence and execution.

The average number sentenced to death in the period amounted to 106 felons but the average number executed amounted to 24 deaths. In the last three years, 1965-67, the courts sentenced 306 felons to death but there were only 10 executions. The average number executed constituted about one-fourth the number sentenced to death.

Table 5

FELONS SENTENCED TO DEATH  
AND NUMBER OF EXECUTIONS IN THE UNITED STATES, 1960-67

Year	Sentenced to death	Executed
1960	113	56
1961	140	42
1962	110	47
1963	100	21
1964	109	15
1965	98	7
1966	118	1
1967	90	2
Total	848	191
Average	106	24



## PRISONERS UNDER THE DEATH SENTENCE, 1953 TO 1967

Not only has there been a difference between the number of violent crimes, the number sentenced to death and the number of executions but there has been an even greater gap between the number of prisoners in death row waiting execution or other disposition and the number executed.

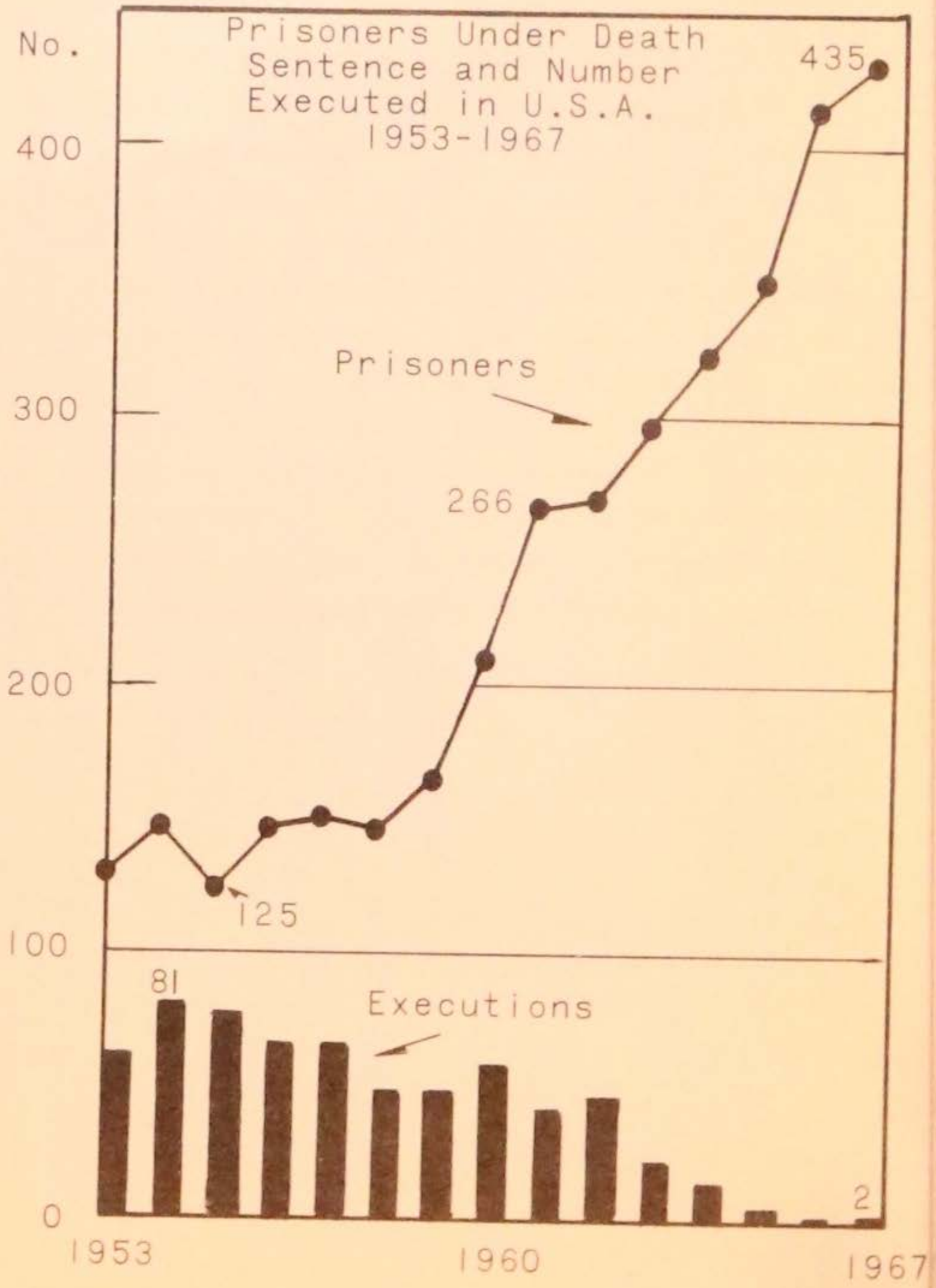
In the period from 1953 to 1967 the number of executions in the nation decreased from the highest number of 81 in 1954 to the lowest of one in the next to the last year. In the same 15 years the number of felons in prisons under the death sentence waiting disposition rose from 125 in 1955 to 435 in the final year. As of December 31, 1967 there were 435 prisoners in Death Row in 34 states. This number does not include felons in county jails. In 15 years the number of prisoners under the death sentence has tripled, whereas, executions have decreased to only two.

Table 6  
PRISONERS UNDER DEATH SENTENCE  
AND NUMBER OF EXECUTIONS, 1953-67

Year	Under Death Sentence, December 31st	Executions
1953	131	62
1954	147	81
1955	125	76
1956	146	65
1957	151	65
1958	147	49
1959	164	49
1960	210	56
1961	266	42
1962	268	47
1963	298	21
1964	322	15
1965	351	7
1966	415	1
1967	435	2



Chart 3



## YEARS UNDER THE DEATH SENTENCE

How long have prisoners been in prison under the death sentence waiting disposition of their cases? The facts for two years, 1960 and 1967 supply a partial answer.

As of December 31, 1960 there were 210 felons in prison sentenced to death. Of these, 103 or 49 percent had been in Death Row for less than one year; 54 or 25.7 percent for more than one but less than 2 years; 22 or 10.5 percent for more than 2 but less than 3 years; 16 for more than 3 but less than 4 years; 6 for more than 4 but less than 5 years; and 15 or 4.3 percent for more than 5 years.

As of December 31, 1967 there were 435 felons in prison waiting disposition of their cases. Of these 87 or 20 percent had been in Death Row less than one year, 109 or 25 percent more than 1 but less than 2 years; 64 or 14.7 percent for more than 2 but less than 3 years; 49 or 11.3 percent for more than 3 but less than 4 years; 34 or 7.8 percent for more than 4 but less than 5 years. The remaining 82 or 21.2 percent had been in Death Row for 5 years or more.

When the data for 1960 are compared to that for 1967 it becomes evident that, (1) there were more prisoners in Death Row in 1967 than in 1960 and, (2) that the time lapse from the first imposition of the death sentence and the end of the year was much longer in 1967 than in 1960. In 1960 only 4.3 percent had been waiting disposition of their sentence for more than 5 years but in 1967 more than one-fifth, 21.2 percent had been in prison more than 5 years from the date of their sentences. More prisoners are spending more time in Death Row now than earlier.



Table 8

TIME PRISONERS HAVE BEEN UNDER  
DEATH SENTENCE WAITING DISPOSITION

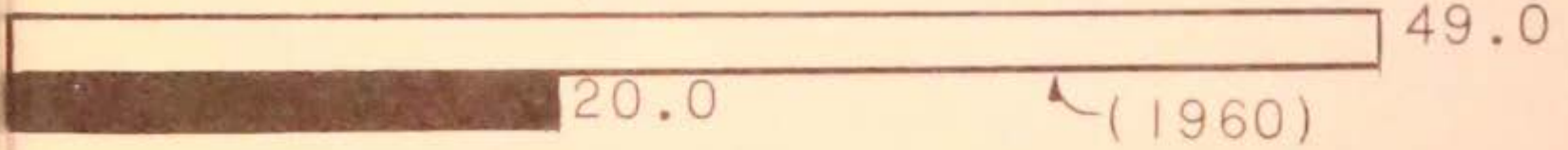
IN 1960 AND 1967

(FROM DEATH SENTENCE TO DEC. 31ST OF EACH YEAR)

Years From Death Sentence	Prisoners			
	1960		1967	
	Number	Percent	Number	Percent
Less than 1	103	49.0	87	20.0
1 to 2	54	25.7	109	25.0
2 to 3	22	10.5	64	14.7
3 to 4	16	7.6	49	11.7
4 to 5	6	2.9	34	7.8
5 to 6	4	1.9	22	5.1
6 to 7	5	2.4	26	6.0
7 to 8	0	0	25	5.7
8+	0	0	19	4.4
Total	210	100.0	435	100.0

Source: National Prisoner Statistics, Bulletins, No. 26 (1961) and No. 42 (1968) U.S. Bureau of Prisons.

Less than one year



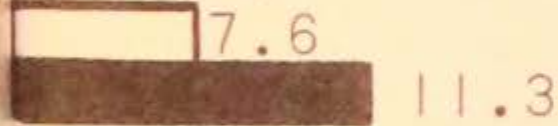
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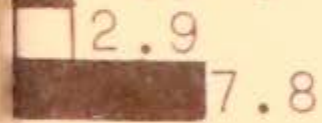
2 to 3



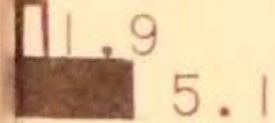
3 to 4



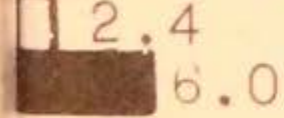
4 to 5



5 to 6



6 to 7



7 to 8

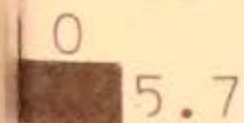


Chart 5

YEARS FELONS HAVE BEEN UNDER DEATH SENTENCE, 1960 (210) AND 1967 (435) (Percentages)

### TIME BETWEEN DEATH SENTENCE AND EXECUTION

How long have executed prisoners waited their execution? The time lapse between the first imposition of the death sentence and the actual execution of prisoners is available for 416 prisoners executed during the 10 year period of 1956 to 1965.

Of the 416 felons executed, 163 or 39.2 percent were executed in less than one year after they had been sentenced to death and 142 or 34.1 percent had waited in Death Row more than one year but less than two years. Almost three-fourths (73.3 percent) were executed within two years or less. Of the rest, 54 or 13 percent were executed within two to three years after being sentenced and 31 or 7.5 percent three to four years after sentence. Of the remaining 26 prisoners, 20 were held four to five years, three, 5 to 6 years, two 6 to 7 years and one more than 7 years.

Table 9

TIME BETWEEN DEATH SENTENCE AND EXECUTION  
FOR 416 PRISONERS, 1956 to 1965  
(Time is from first sentence to death and execution)

Year	Total	
	Number	Percent
Less than 1	163	39.2
1 to 2	142	34.1
2 to 3	54	13.0
3 to 4	31	7.5
4 to 5	20	4.8
5 to 6	3	0.7
6 to 7	2	0.5
7 to 8	1	0.2
Total	416	100.0



## YEARS UNDER THE DEATH SENTENCE

How long have prisoners been in prison under the death sentence waiting disposition of their cases? The facts for two years, 1960 and 1967 supply a partial answer.

As of December 31, 1960 there were 210 felons in prison sentenced to death. Of these, 103 or 49 percent had been in Death Row for less than one year; 54 or 25.7 percent for more than one but less than 2 years; 22 or 10.5 percent for more than 2 but less than 3 years; 16 for more than 3 but less than 4 years; 6 for more than 4 but less than 5 years; and 15 or 4.3 percent for more than 5 years.

As of December 31, 1967 there were 435 felons in prison waiting disposition of their cases. Of these 87 or 20 percent had been in Death Row less than one year, 109 or 25 percent more than 1 but less than 2 years; 64 or 14.7 percent for more than 2 but less than 3 years; 49 or 11.3 percent for more than 3 but less than 4 years; 34 or 7.8 percent for more than 4 but less than 5 years. The remaining 82 or 21.2 percent had been in Death Row for 5 years or more.

When the data for 1960 are compared to that for 1967 it becomes evident that, (1) there were more prisoners in Death Row in 1967 than in 1960 and, (2) that the time lapse from the first imposition of the death sentence and the end of the year was much longer in 1967 than in 1960. In 1960 only 4.3 percent had been waiting disposition of their sentence for more than 5 years but in 1967 more than one-fifth, 21.2 percent had been in prison more than 5 years from the date of their sentences. More prisoners are spending more time in Death Row now than earlier.

Table 8

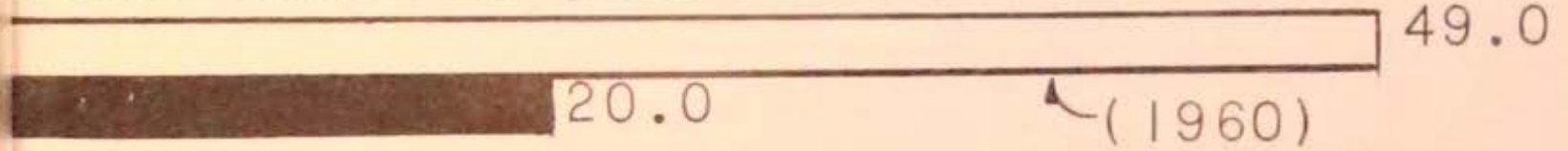
TIME PRISONERS HAVE BEEN UNDER  
DEATH SENTENCE WAITING DISPOSITION  
IN 1960 AND 1967

(FROM DEATH SENTENCE TO DEC. 31ST OF EACH YEAR)

Years From Death Sentence	Prisoners			
	1960		1967	
	Number	Percent	Number	Percent
Less than 1	103	49.0	87	20.0
1 to 2	54	25.7	109	25.0
2 to 3	22	10.5	64	14.7
3 to 4	16	7.6	49	11.7
4 to 5	6	2.9	34	7.8
5 to 6	4	1.9	22	5.1
6 to 7	5	2.4	26	6.0
7 to 8	0	0	25	5.7
8+	0	0	19	4.4
Total	210	100.0	435	100.0

Source: National Prisoner Statistics, Bulletins, No. 26 (1961) and No. 42 (1968) U.S. Bureau of Prisons.

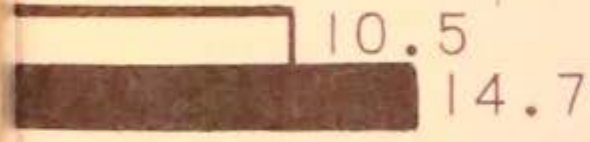
Less than one year



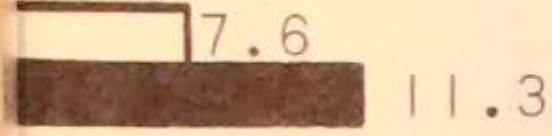
1 to 2



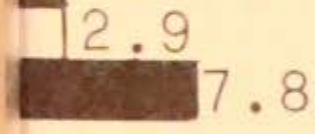
2 to 3



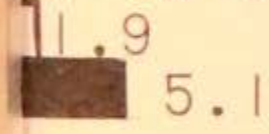
3 to 4



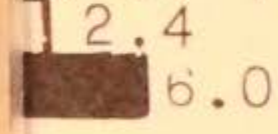
4 to 5



5 to 6



6 to 7



7 to 8

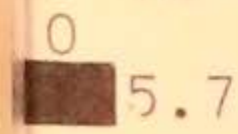


Chart 5

YEARS FELONS HAVE BEEN UNDER DEATH SENTENCE, 1960 (210) AND 1967 (435) (Percentages)



### TIME BETWEEN DEATH SENTENCE AND EXECUTION

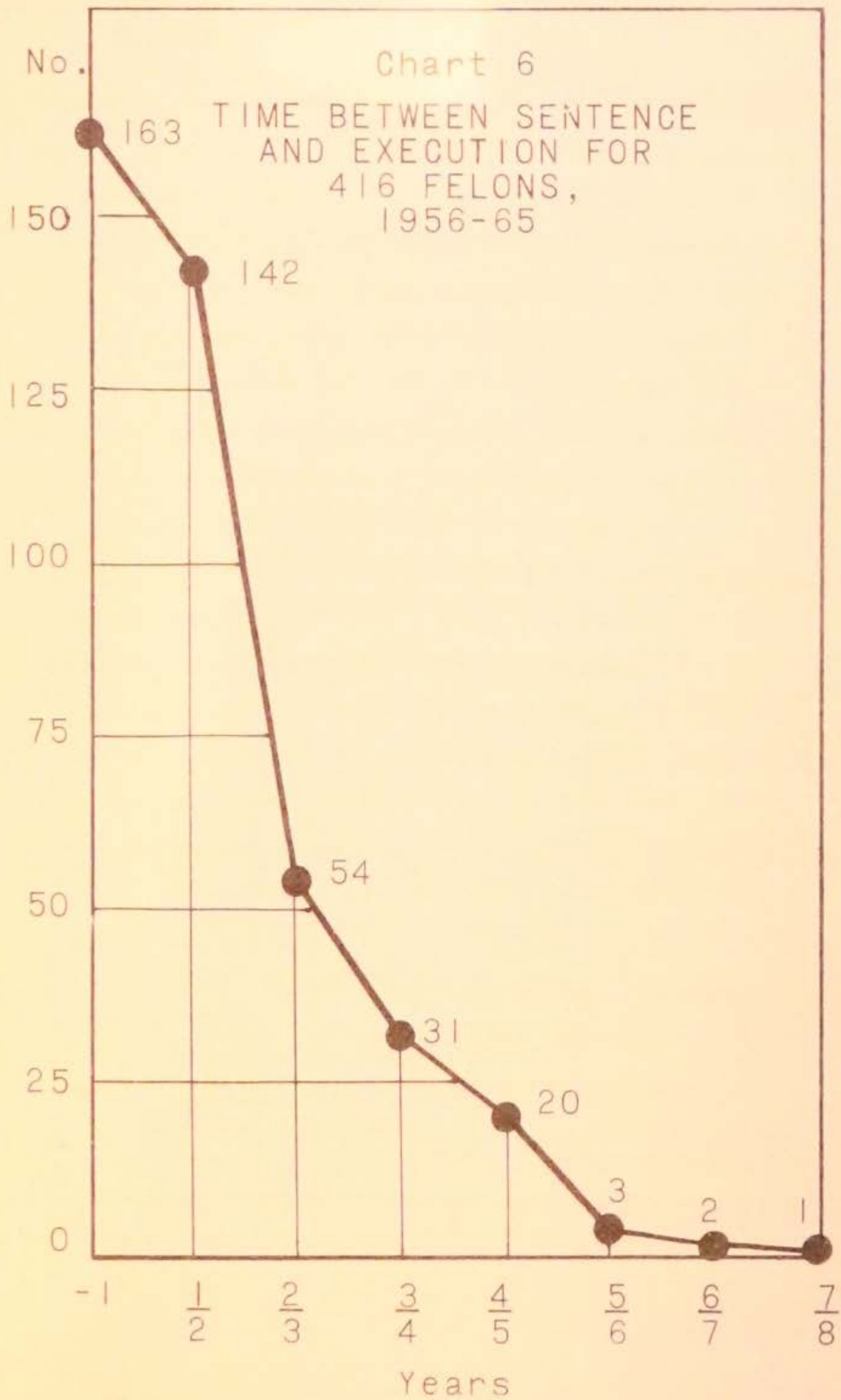
How long have executed prisoners waited their execution? The time lapse between the first imposition of the death sentence and the actual execution of prisoners is available for 416 prisoners executed during the 10 year period of 1956 to 1965.

Of the 416 felons executed, 163 or 39.2 percent were executed in less than one year after they had been sentenced to death and 142 or 34.1 percent had waited in Death Row more than one year but less than two years. Almost three-fourths (73.3 percent) were executed within two years or less. Of the rest, 54 or 13 percent were executed within two to three years after being sentenced and 31 or 7.5 percent three to four years after sentence. Of the remaining 26 prisoners, 20 were held four to five years, three, 5 to 6 years, two 6 to 7 years and one more than 7 years.

Table 9

TIME BETWEEN DEATH SENTENCE AND EXECUTION  
FOR 416 PRISONERS, 1956 to 1965  
(Time is from first sentence to death and execution)

Year	Total	
	Number	Percent
Less than 1	163	39.2
1 to 2	142	34.1
2 to 3	54	13.0
3 to 4	31	7.5
4 to 5	20	4.8
5 to 6	3	0.7
6 to 7	2	0.5
7 to 8	1	0.2
Total	416	100.0



THE ABOLITION AND RESTORATION OF CAPITAL PUNISHMENT IN  
CERTAIN STATES IN THE UNITED STATES, 1846-1967

In the century and a quarter from 1846 to date, 15 states abolished capital punishment for all types of crimes; and 7 partially, reserving the death penalty for certain offenses. In the same years 11 states that at one time had abolished the death penalty subsequently restored it for various reasons. In 3 states the death sentences was reabolished after having been restored after an earlier abolition.

States where capital punishment has been completely abolished:

West Virginia in 1965

Michigan in 1963

Alaska in 1957

Hawaii in 1957

Minnesota in 1911

Wisconsin in 1853

States where capital punishment has been partially abolished but retained for certain crimes.

1. New York in 1965 except for killing police or prisoner under life sentence who kills a guard or inmate.
2. Vermont in 1965 except for first degree murder and killing police or prison guard.
3. Michigan in 1847 except for treason.
4. Tennessee in 1915 except for rape.
5. Arizona in 1916 except for treason.
6. North Dakota in 1915 except for first degree murder by a prisoner serving a life sentence.
7. Rhode Island in 1852 except for prisoner serving life sentence.



States where capital punishment has been abolished but subsequently restored:

Iowa in 1872 but restored in 1878  
 Oregon in 1914 but restored in 1920  
 Delaware in 1958 but restored in 1961  
 South Dakota in 1915 but restored in 1939  
 Kansas in 1907 but restored in 1935  
 Missouri in 1917 but restored in 1919  
 Washington in 1913 but restored in 1919  
 Colorado in 1897 but restored in 1901  
 Maine in 1876 but restored in 1883

Information is not available for restoring capital punishment but the Iowa situation may be typical. In 1872 Iowa abolished capital punishment after a hanging in Des Moines which elicited sympathy for the condemned man. In July of 1873 the James Brothers robbed the Rock Island train near Adair, Iowa, and killed the engineer. Shortly thereafter violent crimes increased in the state and families of legislators became some of the victims. In 1878, the General Assembly restored capital punishment by a vote of 57 to 35 in the House and 30 to 16 in the Senate. States where capital punishment has been abolished, restored and then re-abolished:

Iowa abolished capital punishment in 1872, restored it in 1878 and then abolished it again in 1965.

Oregon abolished it in 1914, restored it in 1920 and then re-abolished it in 1964.

Maine abolished it in 1876, then restored it in 1883 finally re-abolishing it in 1887.

## CHARACTERISTICS OF KILLERS AND VICTIMS

With very few exceptions the killer and the victim are close to each other socially by ties of family or friendships. Of every 100 murders in 1967, almost one-third (30) were within the family and 10 were the result of romantic triangles or lover's quarrels. More than 40 of every 100 cases were the result of arguments outside the family among persons acquainted with each other. In one rare case in Pennsylvania a man killed a drinking companion in a tavern as the result of an argument over the Ten Commandments. In not a few cases an ex-spouse kills a husband or wife. In Scott County, Iowa, an ex-wife who had been married four times killed her ex-husband. In Linn County a husband killed his wife because she was divorcing him. In another type a 15 year old killed his father because of certain differences. In one case a farmer killed another farmer after he forced his victim to sign a check for \$8,900 in order to pay a gambling debt.

## MALE AND FEMALE KILLERS AND VICTIMS, 1967

Most killers are males but the sex difference among victims is not as marked. Of the 9,145 killers, 84 percent were men but only 75 percent of the victims were males. In the same year 16 percent of the killers were females but 25 percent of the victims were women. The percentage of male killers (83.7) was larger than the percentage of victims (75.4) by 8.3 percent and the same for female killers was 8.3 percent less than the victims.

Table 10

KILLERS AND VICTIMS BY  
SEX, 1967

Sex	Killers (a)		Victims	
	Number	Percent	Number	Percent
Male	7,650	83.7	8,381	75.4
Female	1,495	16.3	2,733	24.6
Total	9,145	100.0	11,114	100.0

(a) 4,566 counties and cities covering 145,927,000 inhabitants.  
Ibid. p.124.



## RACE OF KILLERS AND VICTIMS

With few exceptions people of the same racial or ethnic group kill each other, i. e., Black persons kill Black people and White persons kill White people. In 1967, of 8,218 persons arrested for murder 59.3 percent were Black whereas 53.7 percent of the victims were Black. In the same year 49.1 percent of the killers were White and 45.1 percent of the victims were White.

Despite the fact that nonwhite persons comprise about 10 percent of the population in the nation they make up more than half the homicide victims, 59.3 percent in 1967. In 1964-65 there were 31 White persons killed per million but 290 non white victims.

Table II

KILLERS AND VICTIMS BY RACE,  
IN THE UNITED STATES, 1967

Race	Killers <sup>(a)</sup>		Victims	
	Number	Percent	Number	Percent
Black	4,883	59.3	5,970	53.7
White	3,200	49.1	5,011	45.1
Indian	49	0.5	77	0.7
Chinese	2	---	5	---
Japanese	9	0.1	10	0.1
Unknown	75	0.9	41	0.4
Total	8,218	100.0	11,114	100.0

(a) 4,508 counties and cities covering 135,203,000 inhabitants.  
Ibid. p. 126.

## THE AGE OF MURDERERS, 1967

Of the 9,145 persons arrested for murder in the nation in 1967 a few less than one-fifth (17.2 percent) were under 20 years of age and more than one-third (35.8 percent) were 20 to 29 years old, whereas, 22.3 percent were between 30 and 39 years of age. After 40 the age of murderers decreased sharply with only 4.1 percent over 60 years.

When the age distribution of those arrested for murder and the persons murdered are placed on the chart it becomes evident that the median age of killers is about 10 years less than the age of the victims.

Table 12  
AGE OF PERSONS ARRESTED FOR  
MURDER IN 4,566 AGENCIES  
COVERING 145,927,000 OF POPULATION IN U.S.A. 1967

Age	Number	Percent
- 15	137	1.5
15-19	1,436	15.7
20-24	1,842	20.1
25-29	1,369	15.0
30-34	1,085	11.9
35-39	949	10.4
40-44	772	8.4
45-49	568	6.2
50-54	402	4.4
55-59	214	2.3
60-64	173	1.9
65 +	196	2.1
Unknown	2	.02
Total	9,145	99.9

The persons arrested are not the killers of the victims shown in previous material.

Source: Ibid p. 123.

## AGE OF MURDERED PERSON, 1967

The ages of the murder victims in 1967 are known in all but a few (177) of the total 11,114 persons. Of those where ages were known 329 or 2.9 percent were under 5 years and 244 or 2.2 percent 5 to 14 years. Infanticide, killing of those under 1 year amounted to 138 cases, 73 boys and 65 girls.

About one-fifth (22.6 percent) 2,407 were 15 to 24 years and 2,703 were 25 to 34 years of age. Almost one-fifth (21.5 percent) 2,385 were 35 to 44 and 13.7 percent or 1,517 were 45 to 54 years.

Of the remainder, 6.6 percent (742) were 55 to 64 years; 3.8 percent or 427 were 65 to 74 and 1.6 percent or 183 were over 75 years of age.

(See Table 13).

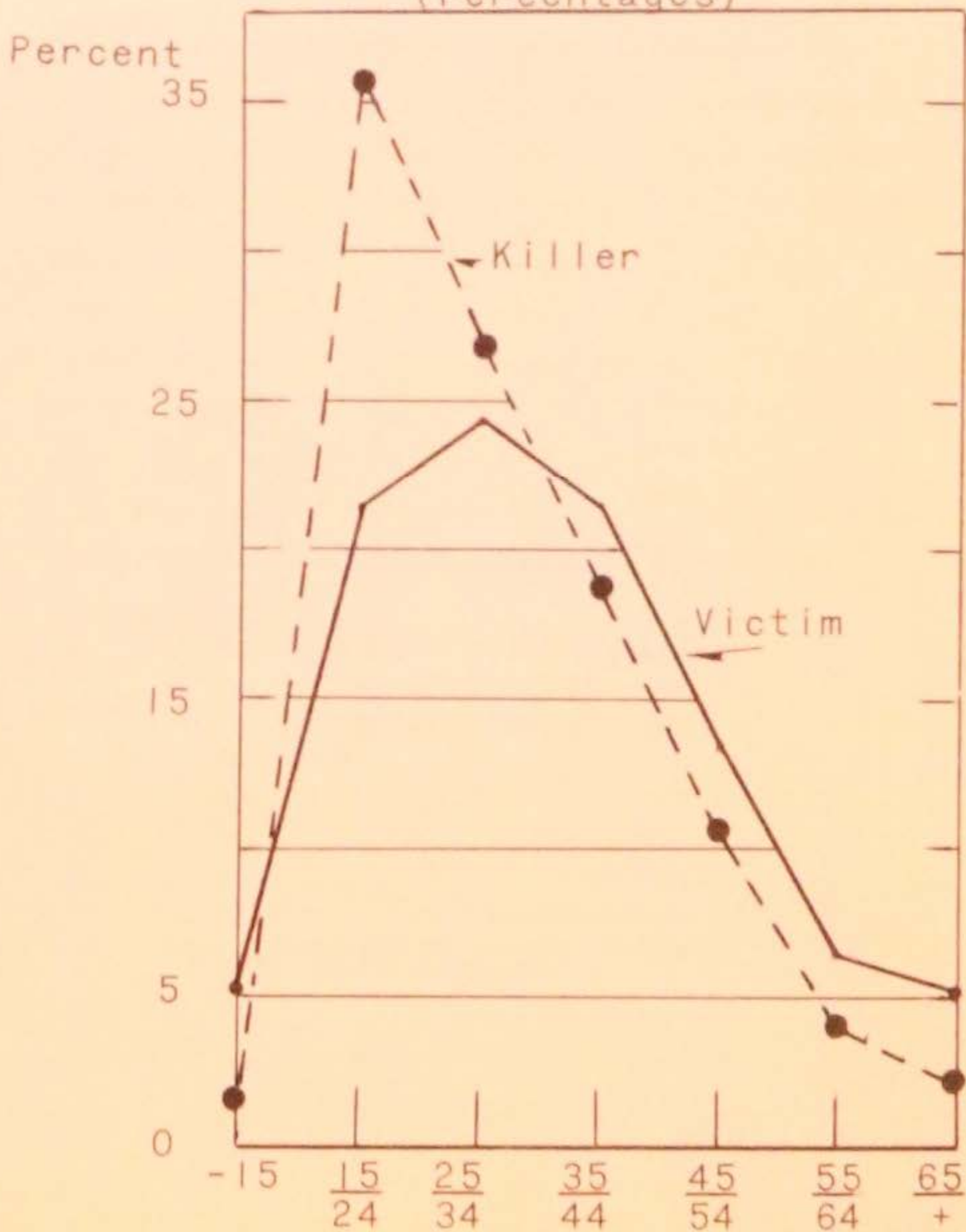


Table 13  
AGE OF MURDERED PERSONS  
IN THE UNITED STATES, 1967

Age	Number	Percent
- 1	138	1.2
1-4	191	1.7
5-9	123	1.1
10-14	121	1.1
15-19	904	8.1
20-24	1,503	13.5
25-29	1,475	13.3
30-34	1,228	11.0
35-39	1,377	11.5
40-44	1,108	10.0
45-49	873	7.9
50-54	644	5.8
55-59	450	4.0
60-64	292	2.6
65-69	249	2.2
70-74	178	1.6
75 +	183	1.6
Unknown	177	1.6
Total	11,114	100.0

Source: Crime in the United States,  
Uniform Crime Reports, 1967,  
p. 112.

Chart 7  
 AGE OF KILLERS AND VICTIMS  
 IN THE UNITED STATES, 1967  
 (Percentages)



## METHODS USED BY MURDERERS, 1967

Of the 11,114 murdered victims, 6,998 or 63 percent were shot to death, and about one-fifth, 19.8 percent were killed by stabbing and 8.6 percent or 957 by strangulation or beating. Of the 573 victims under 14 years of age 226 or 39 percent were strangled or beaten to death.

Death due to poison accounted for 32 victims or 0.3 percent, 11 (0.1 percent) were killed by explosions, 211 (1.9 percent) were drowned or burned to death and in 116 (1 percent) of the cases the method was unknown

Table 14

METHODS USED IN MURDERS  
IN THE UNITED STATES IN 1967

Rank Order	Method	Number	Percent
1.	Gun	6,998	63.0
2.	Cutting, Stabbing	2,200	19.8
3.	Strangulation, Beating	957	8.6
4.	Blunt Object, Club	589	5.3
5.	Poison	32	0.3
6.	Explosives	11	0.1
7.	Others (Drowning, Arson)	211	1.9
8.	Unknown	116	1.0
	Total	11,114	100.0

Source: Ibid, p. 112.



## DISPOSITION OF MURDERERS, 1967

Limited amount of facts on what happens to persons arrested for murder are available from about one-third of the population in the nation in 2,251 cities covering 60,580,000 inhabitants.

Of the 3,358 arrested, 2,182 were charged with murder or about two-thirds (65 percent) whereas, in 1,176 or 35 percent of the cases authorities failed to establish the charge.

Of the 2,182 charged with murder 953 or 43.6 percent were found guilty as charged, and 363 or 16.7 percent were found guilty of a lesser offense than murder.\* Of the remainder, 693 or 31.7 percent were acquitted or charges were dismissed and the rest, 173 or 7.9 percent were referred to juvenile courts because of age.

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\*Criminal homicide excludes attempts to kill, assaults to kill, accidental deaths, justifiable murder.

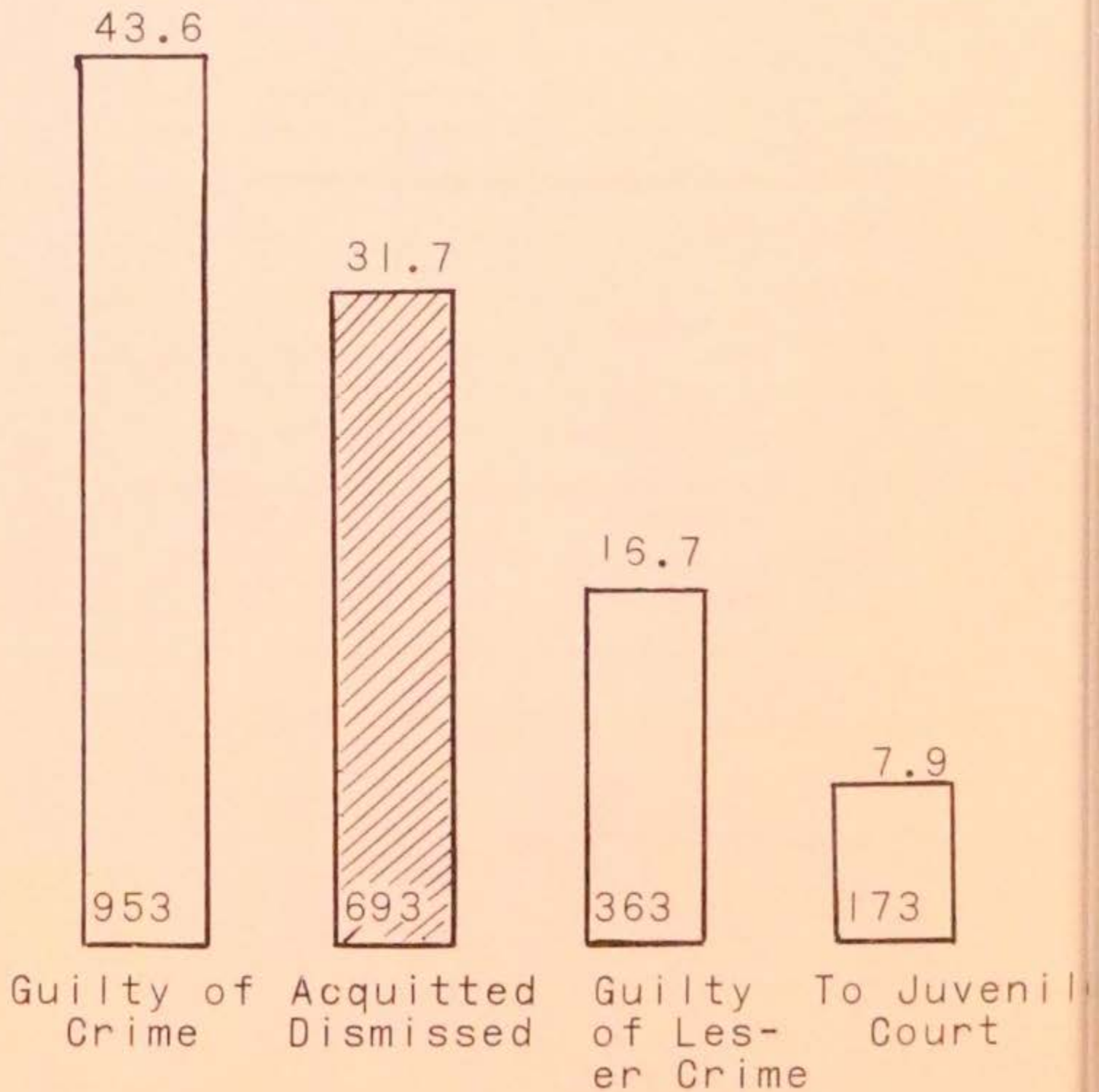
Table 15  
 DISPOSITION OF PERSONS ARRESTED  
 FOR MURDER IN 2,251 CITIES  
 IN U.S.A. 1967

Arrested	3,358	
Charged	2,182	
<hr/>		
Disposition after Charge —		
1. Adults found guilty	953	43.6
2. Adults guilty of lesser crime	363	16.7
3. Adults acquitted or dismissed	693	31.7
4. Referred to Juvenile Court	173	7.9
<hr/>		
Total	2,182	100.0

Source: Ibid. p. 109.

DISPOSITION OF 2,182 PERSONS  
CHARGED WITH MURDER IN U.S.A. 1967  
(Percentages)

Chart 8





## WHAT DO PEOPLE THINK ABOUT CAPITAL PUNISHMENT?

In spite of the varied attempts to abolish capital punishment majority of people are in favor of the death penalty for homicide. In 1955 the American Institute of Public Opinion found that 68 percent of the people favored capital punishment, 25 percent were opposed and 7 percent expressed no opinion.

In order to determine what people think about the death penalty for a definite crime the author asked 1142 individuals to express their view. They were asked whether they "Strongly Agreed", "Agreed", "Disagreed", "Strongly Disagreed", or were "Undecided" about the statement; THE DEATH PENALTY FOR PREMEDITATED MURDER IS JUSTIFIED. Three groups of people were interviewed in 1960 in order to obtain a cross section or concensus. These included 817 students at Iowa State University in Ames, Iowa, 200 inmates, (100 at the State Reformatory, Anamosa, Iowa and 100 at the State Penitentiary, Ft. Madison, Iowa), and 125 prison guards with about half from each correctional institution.

Of the total 1142 individuals about two-thirds, 61.6 percent, approved of the death penalty, one fourth, 26.7 percent, did not approve and 11.7 percent were undecided. There was a marked difference between the non-prisoners (students and guards) and the inmates. More than two-thirds of the students, 65.4 percent, and 70.4 percent of the guards approved of the death penalty whereas only one fourth, 23.5 percent, of the inmates approved of the same. Of the students 18.7 percent were opposed to the death penalty as were 15.9 percent of the guards. In contrast to this 66 percent of the inmates were opposed to the death penalty. The percentage of those undecided were 10.5 percent for inmates; 11.8 percent for students and 13.5 percent for guards.

It cannot be said that the views of these 1142 persons represent what all the people of the state may think about the death penalty but the fact remains that students and guards approve whereas the great majority of the inmates do not approve. In 1969, the American Institute of Public Opinion (Gallup Poll) reported that 51 percent of the persons interviewed favored the death penalty in murder cases.

Table 16

## THE DEATH PENALTY FOR PREMEDITATED MURDER IS JUSTIFIABLE.

Reaction	Number	Percent
Strongly Agree	292	25.6
Agree	411	36.0
Undecided	134	11.7
Disagree	172	15.1
Strongly Disagree	133	11.6
TOTALS	1,142	100.0

} 61.6  
 }  
 } 26.7  
 }



## THE REFEREE'S RED FLAG

Except for moral grounds most objections to the death penalty are based on the principle that it does not deter crimes of violence, therefore, it should be abolished. Advocates of abolishment point to the nature of the crime as a non-rational act, therefore, the killer at no time gives consideration to the penalty. One felon put it as follows, "The hot seat will never stop a guy from pullin' a trigger."

This line of reasoning is good but it does not go far enough. The death penalty may not deter persons who have killed but what about those persons who have had the urge or impulse to kill but did not carry out their intentions. What facts are available for these persons? Were data compiled on this phase of the issue it is very likely that the death penalty may have been a major factor in deterring these people.

However, beyond this there is another vital consideration. If deterrence is the primary purpose then all punishment should be considered because people violate other laws to such a degree that deterrence is a very small factor. With all the sanctions and all the laws and penalties extant at present, crimes appear to rise rather than decrease. When people follow the rule that crime pays they imply that the rewards are greater than the penalties. As long as this prevails crimes will continue.

When there is a violation of rules on the football field the referee throws down the Red Flag, he imposes a penalty and maybe a loss of yardage. Is the purpose of the Red Flag and the loss of yardage to deter other players from violating the rules of the game? If it is there appears to be small effect because violations continue. Since it has little or no influence then

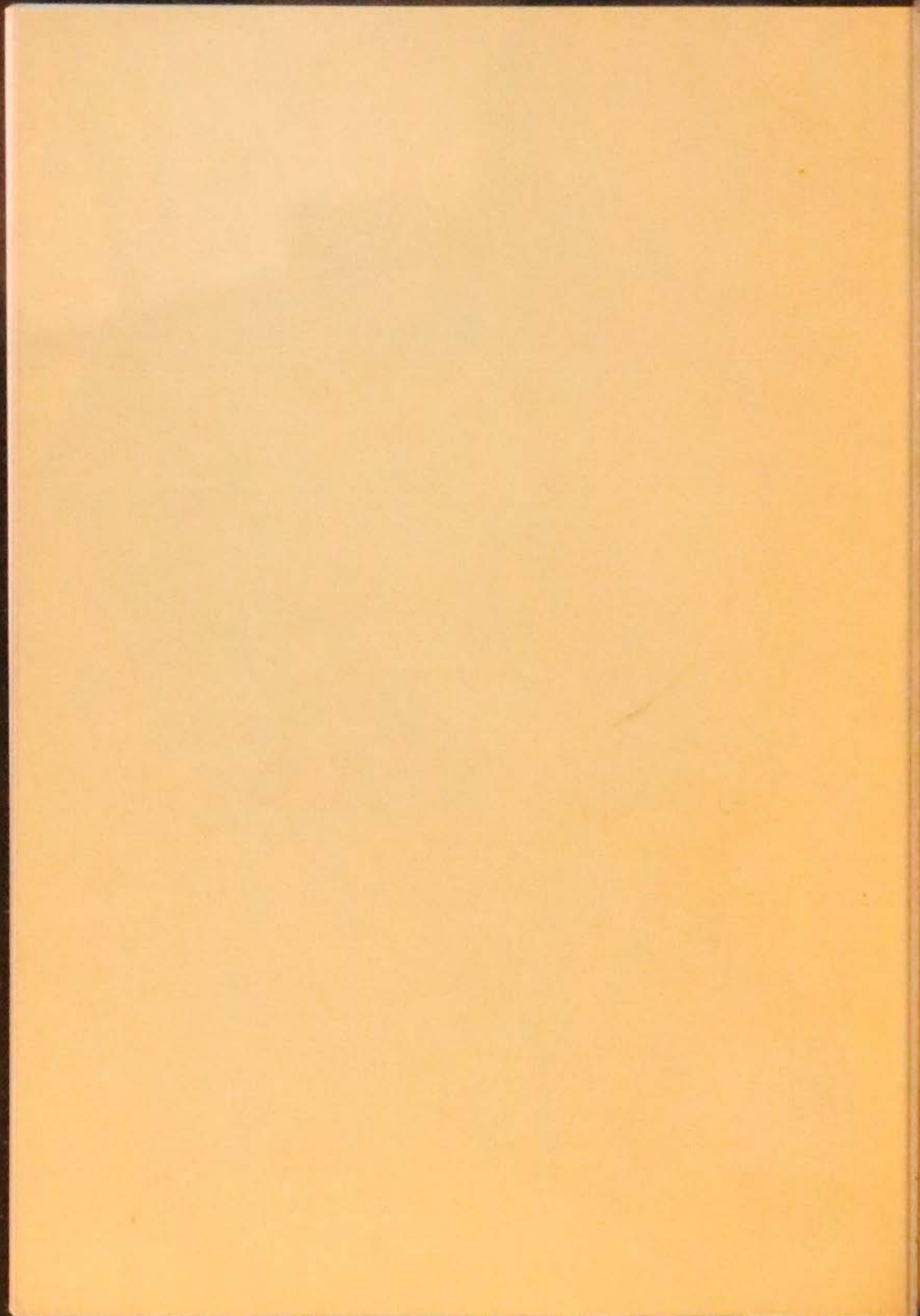


logically all penalties on the field should be abolished. If the advocates for the abolishment of the death penalty are to be logical then they should abolish penalties on the gridiron.

Penalties and loss of yardage on the field are not basically a deterrent but a declaration that a rule has been violated which players and spectators hold to be vital for sportmanship. The death penalty is to criminality what the Red Flag and the penalty is to the violation of rules in football. A warning that displays to all that a serious harm has been done to the basic sense of justice. Without that there would be no overt demonstration that a wrong has been done.

Some persons may overlook the above principles and state that "No one has a right to take the life of another person," therefore, the state has no right to condemn a person to death. The argument is sound but why not ask what right does a killer have to kill? From this some indicate that two wrongs do not make a right. This is possible but it is possible that it may take two wrongs for people to understand that a wrong has been done.

It is most unlikely that there can be any sort of football without the Referee's Red Flag and his penalties and it is most unlikely there can be no balanced society without severe sanctions for severe crimes.



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