

# South Carolina Death Penalty, 2015

Year End Report

**DEATH PENALTY RESOURCE &  
DEFENSE CENTER**

January 15, 2016

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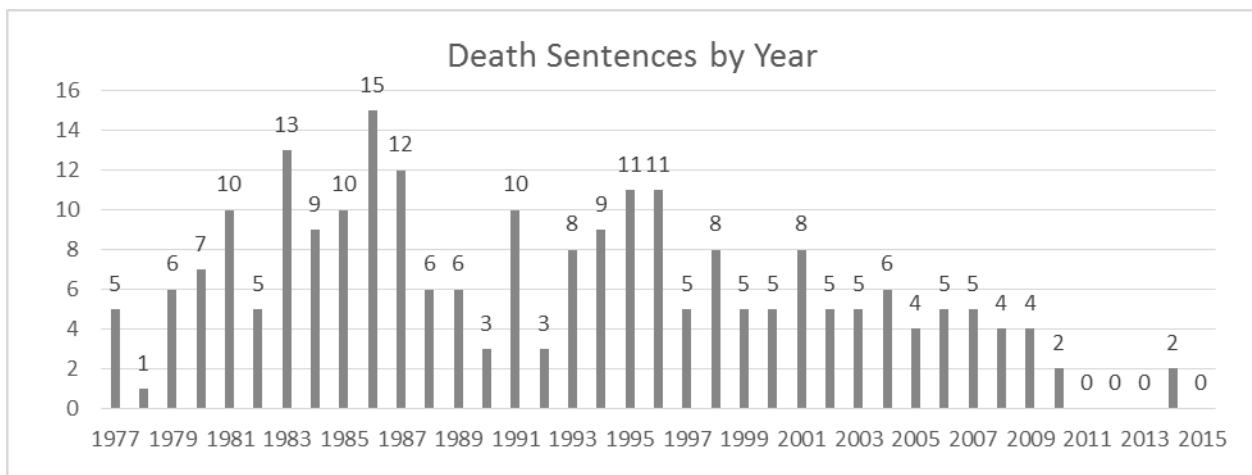
## Year End Report

The Death Penalty Resource & Defense Center (DPR&DC) publishes this year-end report to inform citizens and elected officials about the use of, and issues surrounding, the death penalty in South Carolina over the past year. The report provides information about sentencing in death penalty cases, executions, the current death row population, appellate review of death sentences, and legislative activity relating to the death penalty. Consistent with the rest of the nation,<sup>1</sup> this report recognizes that the use of the death penalty in South Carolina has declined sharply over the last decade.

### Sentencing

*South Carolina juries/courts have imposed only 2 death sentences in the last 5 years.*

No new death sentences were imposed in 2015, down from 2 death sentences imposed in 2014. No death penalty case proceeded to trial this year. Instead, all death penalty cases resolved in 2015 were resolved through a plea agreement to a sentence of less than death. One of the cases resolved in 2015 was resolved when the solicitor offered a plea agreement after a jury was selected (Stephon Carter); the remaining cases were resolved prior to selecting a jury for trial.



<sup>1</sup> See DEATH PENALTY INFORMATION CENTER, The Death Penalty in 2015: Year End Report (Dec. 2015), available at <http://deathpenaltyinfo.org/documents/2015YrEnd.pdf>.

Seven pending death penalty cases were resolved in 2015. Six of the 7 were resolved with plea agreements to a sentence of life without parole; the remaining case was resolved through a plea agreement to a sentence of 50 years. Three of the 7 cases were pending on resentencing after an error was found in the defendant's original conviction and/or sentence by a reviewing court.

Defendant	County	Outcome	Original Trial/Resentencing
<b>Stephon Carter</b>	Aiken	Plea to LWOP	Original Trial
<b>Frederick Evins</b>	Spartanburg	Plea to LWOP	Resentencing
<b>Titus Huggins</b>	Horry	Plea to LWOP	Resentencing
<b>Nickolas Miller</b>	Kershaw	Plea to LWOP	Original Trial
<b>Jacob Philip<sup>2</sup></b>	Charleston	Plea to LWOP	Original Trial
<b>Timothy D. Rogers</b>	Dorchester	Plea to 50 years	Resentencing
<b>Cass Franklin Smith</b>	Cherokee	Plea to LWOP	Original Trial

*Sentences by County:* Only 14 out of South Carolina's 46 counties have sentenced a defendant to death in the last decade. Only 4 counties (Lexington, Horry, Spartanburg, and Greenville) have imposed more than 1 death sentence in the last 10 years. Ten South Carolina counties have never imposed a death sentence in the Modern Era of the death penalty (since 1976).

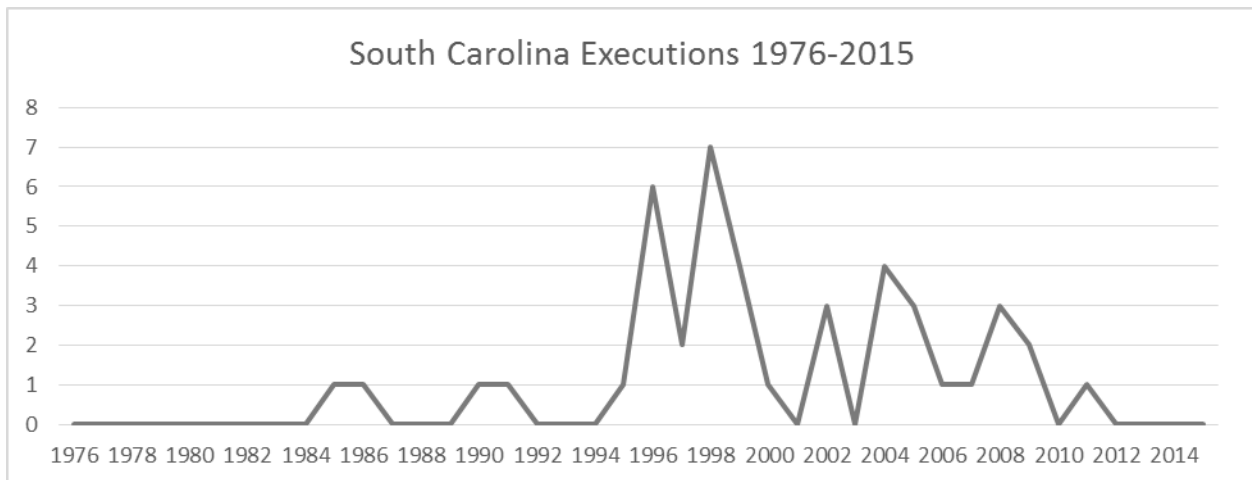
County	Sentences 2006-2015
<b>Lexington</b>	5
<b>Horry</b>	3
<b>Spartanburg</b>	2
<b>Greenville</b>	2
<b>Charleston</b>	1
<b>Anderson</b>	1
<b>Dorchester</b>	1
<b>Greenwood</b>	1
<b>Calhoun</b>	1
<b>Sumter</b>	1
<b>Clarendon</b>	1
<b>Georgetown</b>	1
<b>Pickens</b>	1
<b>Edgefield</b>	1

<sup>2</sup> Jacob Philip pled guilty but mentally ill (GBMI) pursuant to a plea agreement for a sentence of life without parole. The solicitor had indicated that if the case proceeded to trial it would proceed as a death penalty case.

*Death Notices:* In South Carolina, a defendant must be officially notified of the State's intent to seek the death penalty before a case can proceed to a death penalty trial. Elected county solicitors make the determination of whether or not to seek the death penalty and, if so, serve the defendant a Notice of Intent to Seek the Death Penalty. In 2015, 3 defendants were notified that the solicitor intended to seek the death penalty in their case. Only 2 defendants were served with a notice in 2014.

## Executions

No executions were carried out in 2015. The last execution carried out in South Carolina was in 2011 when Jeffrey Motts dropped his appeals. The last execution carried out upon the completion of a defendant's appeals was in 2009.



The method of execution in South Carolina remains the inmate's choice between lethal injection and electrocution. In 2015, a bill was proposed in the South Carolina legislature that would keep all information about the Department of Correction's procurement of lethal injection drugs secret from the public, the legislature itself, and the inmate. The bill was defeated in committees in both the state Senate and House.

## Death Row

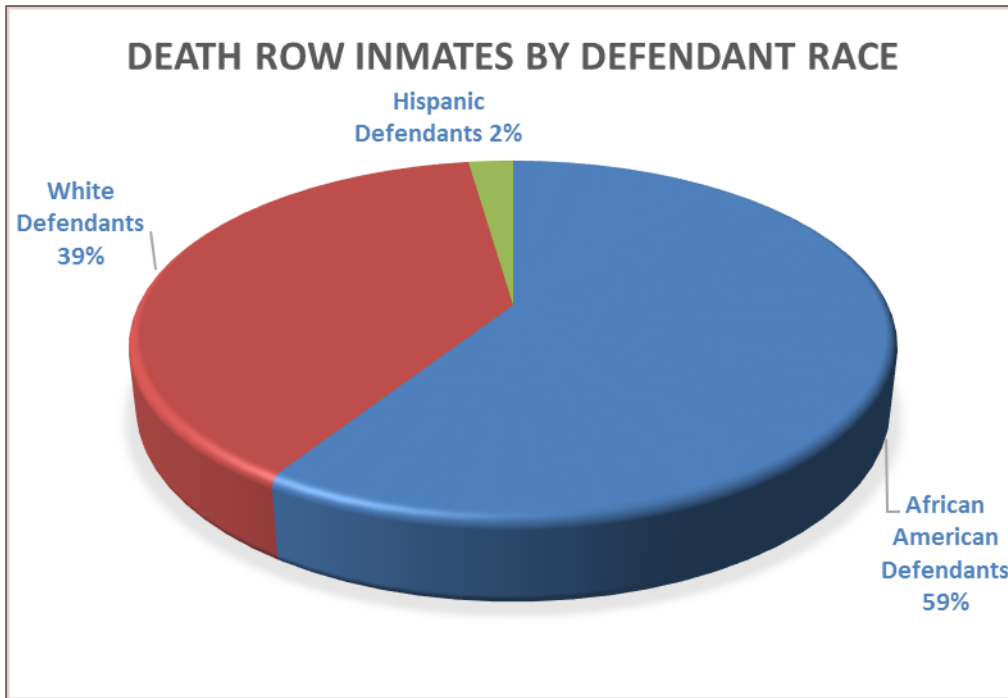
At the end of 2015, 44 men (and no women) await execution on South Carolina's death row. These men have been on death row for an average of 14.5 years while the appellate review process required in death penalty cases takes place. No inmates were added and 4 men were removed from South Carolina's death row in 2015, despite the fact there were no executions.

Three of the men removed from death row received a sentence of less than death and have been moved to general population in the South Carolina Department of Corrections (Frederick Evins, Titus Huggins, and Timothy Rogers). One man died on death row while awaiting a resentencing trial (Jessie Sapp).

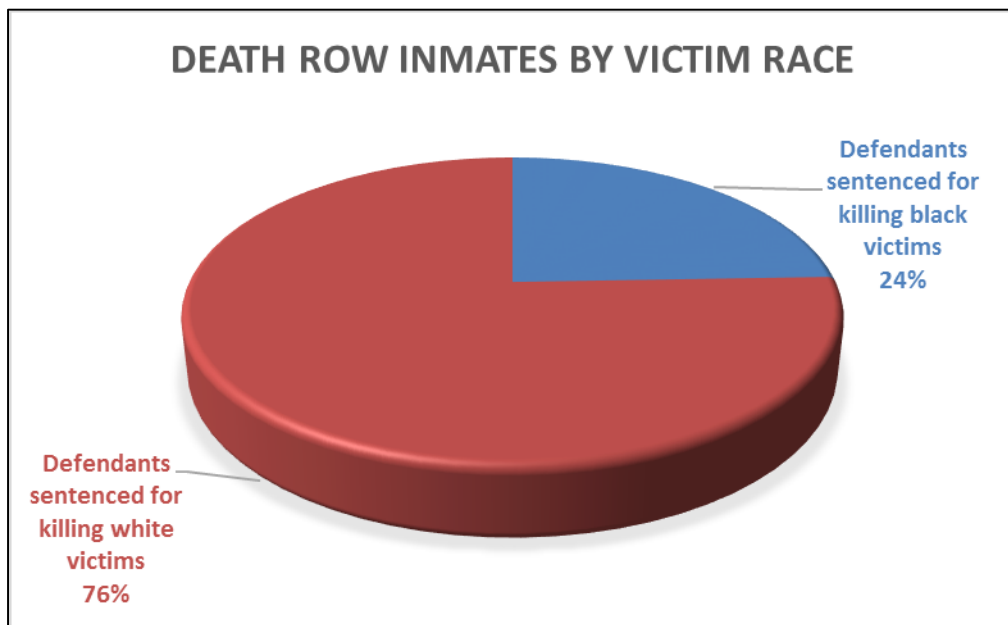
Nine of the men on death row have had their conviction and/or death sentence overturned and are awaiting either the State's appeal of the relief granted or a new trial.

*No inmates were added and 4 men were removed from South Carolina's death row with no executions in 2015.*

*Death Row Inmates by Race:* Fifty-nine percent of the defendants currently on death row are African American, 39% are white, and 2% are Hispanic.



Seventy-six percent of the defendants were sentenced to death for killing white victims and 24% were sentenced to death for killing an African American.



## Reversals

In 2015, the South Carolina Supreme Court sent three death penalty cases back for resentencing. Since 1976, over 60% of all death sentences have been reversed and remanded for a new trial.

*The Mercy Cases:* The three cases reversed this year (John Hughey, Johnathan Binney, and Kamell Evans) are collectively referred to as the “Mercy Cases.” In each case, tried by the same judge, the judge gave an idiosyncratic jury instruction, informing the jury it could not consider mercy as a reason for giving the defendant a life sentence rather than a death sentence. This instruction was given despite the fact that, for decades, South Carolina law has provided that juries may give a life sentence for any reason, or no reason at all, including as an act of mercy.

*Since 1976, over 60% of all death sentences have been reversed and remanded for a new trial.*

*Right to Counsel:* In another case reviewed by the South Carolina Supreme Court in 2015, the court considered the pretrial ruling of a circuit court judge who appointed counsel to represent Stephen Barnes. Barnes’ conviction and death sentence had previously been reversed because he was not allowed to represent himself at his original death penalty trial. The Supreme Court rejected the State’s argument that, because Barnes received a new trial because he was previously prevented from representing himself, he must represent himself at a new trial without the assistance of counsel. The Supreme Court upheld the circuit court’s decision to appoint counsel to Barnes and the case remains pending in pretrial proceedings in Edgefield County.

## Legislative Activity

No new death penalty legislation was passed into law in 2015, but several bills were proposed. The first, as discussed above, aimed to make the information about the Department of Correction’s procurement of the drugs for lethal injection executions a secret (S 553, H 3853). Other bills proposed to instate the firing squad as a method of execution (H 4038) and to eliminate lethal injection as a method of execution (H 4121). None of these bills made it out of committee before the legislative session ended for the summer.

In December of 2015, a bill was prefilled proposing to expand the crimes eligible for the death penalty to include a murder committed because of the victim’s “actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability” (S 915). This bill will likely be considered by a Senate committee in early 2016.

**Please continue to follow the Death Penalty Resource & Defense Center for updates in 2016 as we change our name to Justice 360 [www.justice36osc.org](http://www.justice36osc.org).**