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Justice360sc.org



# JUSTICE 360, 2016 ANNUAL REPORT

JUSTICE IS NOT LINEAR.

It is not absolute, nor simple, nor free from human error. Justice will show you the worst of humanity, and it will ask you to be fair. It will demand your patience, your courage and your reason, even in the face of that which would defy reason.

To ensure that we are truly protected under the law, justice requires an unwavering commitment to what is right, not what is easy. And when its cycle fractures, when players fail to abide by the same rules or the rules fail in their clear understanding, the unthinkable happens. The already disadvantaged are plunged deeper in the grasp of violence and terror. The forgotten become the wrongly accused. And the very concept of what make us human is called into question.

This organization exists because we know that justice doesn't end the day a verdict comes down. Justice is a full-circle endeavor, and the worth of all our lives hangs in its balance. We exist because justice—in all its forms and at every stage of the law—is our best defense against unforgivable cruelty.

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## ADVOCACY EFFORTS

In February 2016, Justice 360 once again mobilized to help defeat South Carolina Senate Bill 553. The bill attempted to make information about the Department of Correction's procurement of lethal injections drugs a "state secret". This bill would have shielded the Department of Corrections from public accountability and transparency necessary in proper democratic representation.

## COMMUNITY PARTNERSHIPS

A tremendous part of organizational efforts in 2016 was dedicated to increasing our visibility and collaboration with similarly focused groups throughout the state of South Carolina. In 2016 we began work with; the St. Andrews Shepard Center, TedX, OTR Films, the Richland Library, Central Carolina Community Foundation, SC Democratic Party, Auntie Bellum Magazine, the City of Columbia Mayor's office, Columbia College, The Watering Hole, Achieve Columbia & Benedict College, among others.

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Justice 360 continued to nurture relationships with long-standing partners such as Able SC, Protection & Advocacy for People with Disabilities, the University of South Carolina, and South Carolinians Abolishing the Death Penalty. We look forward to working with our many community partners in coming years to further strengthen the fight for justice in South Carolina.

## PUBLIC EVENTS & OUTREACH

2016 was highlighted by three large public events for Justice 360.

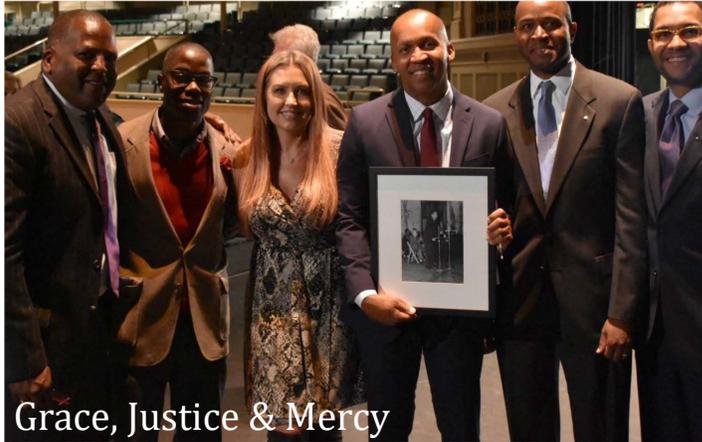
- May 3<sup>rd</sup>, **Midlands Gives:** Justice 360 participated in the 4<sup>th</sup> annual online fundraising event with dozens of other local non-profits in the Midlands of South Carolina. In the 24 hour period on May 3<sup>rd</sup>, we raised close to \$5,000.00 & look forward to increasing that in 2017!
- September 21<sup>st</sup>, ***There Will Be No Stay*** at the Nickelodeon Theatre: Justice 360 partnered with the Nickelodeon Theatre for the screening of the film *There Will Be*

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*No Stay* to a full audience followed by a Q&A session with the film's director, Patty Dillon of Omaha, Nebraska.

- November 17<sup>th</sup>, ***Grace, Justice & Mercy*** an Evening with Bryan Stevenson; Justice 360 hosted renowned justice advocate & civil rights attorney Bryan Stevenson at The Township Auditorium. Close to 1000 audience members packed the auditorium to hear Mr. Stevenson's message in the largest anti-death penalty event of the modern era in South Carolina. {pictures on next page}

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Grace, Justice & Mercy



State directors meet

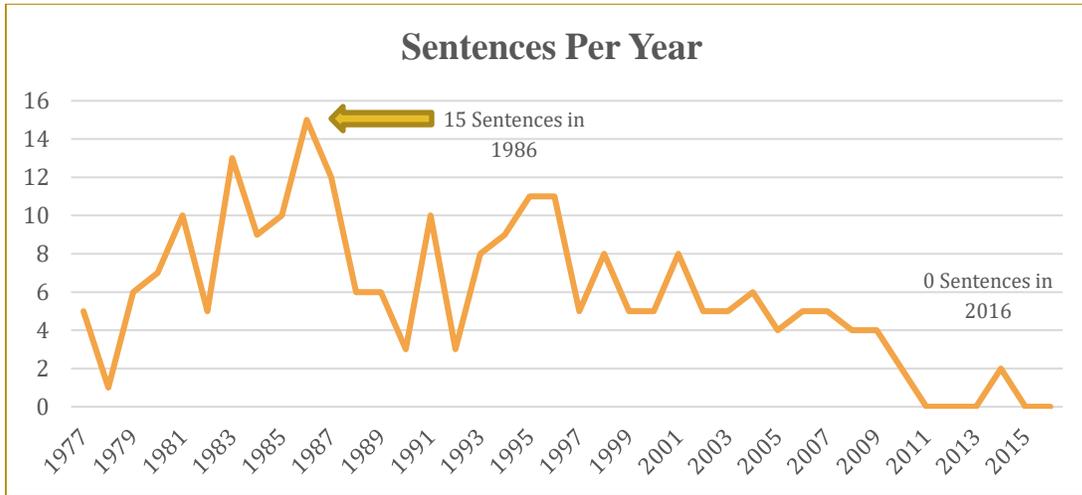


standing ovation

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## CAPITAL SENTENCING

No new death sentences were imposed in South Carolina in 2016; the last death sentence imposed in the state was in 2014.



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Three pending death penalty cases were resolved in 2016, each with a sentence of less than death.

Defendant	County	Outcome	Original Trial/Resentencing
<b>John Hughey</b>	Abbeville	Death notice withdrawn	Resentencing
<b>Benney Brown</b>	Laurens	Life sentence after Brown was found intellectually disabled and ineligible for the death penalty	Original Trial
<b>Jeffrey Eady</b>	Clarendon	Plea to LWOP	Original trial

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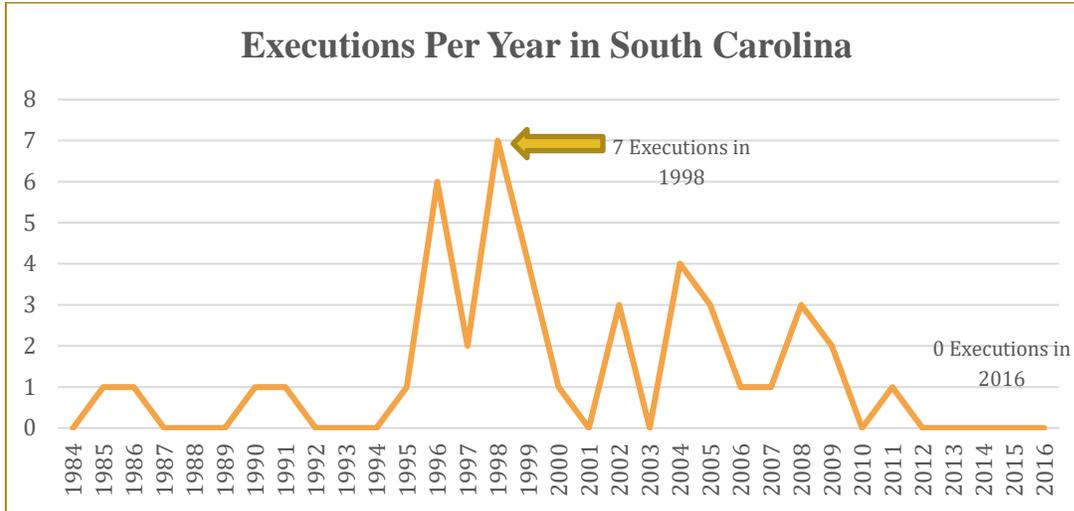
## DEATH NOTICES

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 2016, 2 defendants were notified that the solicitor intended to seek the death penalty in their case. Three defendants were served with a notice in 2015.

## EXECUTIONS

No executions were carried out in 2016. 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. {Steep decline in executions displayed in chart on next page.}

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## DEATH ROW

At the end of 2016, 43 men (and no women) await execution on South Carolina's death row. These men have been on death row for an average of 15.4 years while the appellate review process required in death penalty cases takes place.

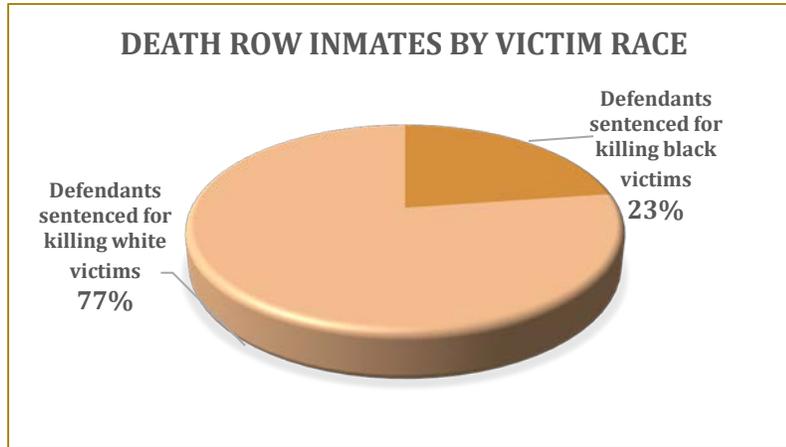
No inmates were added and 1 man was removed from South Carolina's death row in 2016, despite the fact there were no executions. John Hughey was removed from death row after his sentence was overturned by an appellate court and the solicitor decided not to seek death at a retrial. He has been moved to general population in the South Carolina Department of Corrections.

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.

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## DEATH ROW INMATES BY RACE

Fifty-eight percent of the defendants currently on death row are African American, 40% are white, and 2% are Hispanic. More than three-quarters of those on death row were convicted of killing a white victim. The remainder were convicted of killing African American victims.



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## REVERSALS

In 2016, courts continued to find error in the administration of the South Carolina death penalty. Overall, error has been found in over 60% of all death penalty cases in the state since the penalty was reinstated in 1977.

This fall, the United State Court of Appeals for the Fourth Circuit (located in Richmond, Virginia) ruled that racist comments made by the Lexington County Solicitor in **Johnny Bennett's** death penalty trial violated Mr. Bennett's right to a fair trial. According to the ruling, the comments "were unmistakably calculated to inflame racial fears and apprehensions on the part of the jury." Solicitor Donald Myers referred to Mr. Bennett as "King Kong," a "caveman," and various other animals. The solicitor also elicited testimony about murderous "black Indians" and that Mr. Bennett had been involved in an interracial romantic relationship. The Court of Appeals found these comments "were poorly disguised appeals to racial prejudice" and that the solicitor's conduct at trial

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threatens to tear apart Americans' trust in the criminal justice system. The court remanded the case for a new (and fair) sentencing trial. The State has the option to appeal this decision to the United States Supreme Court.



A circuit court in Anderson County, South Carolina found that **William H. Bell, Jr.** is intellectually disabled and constitutionally ineligible for the death penalty. Under US Supreme Court law, a person with intellectual disability has “diminished capacities” and, therefore, lesser culpability. As a result, “[n]o legitimate penological purpose is served by executing a person with intellectual disability.” The circuit court found expert evaluations and Mr. Bell’s school records proved that he is intellectually disabled and vacated Mr. Bell’s death sentence. The State

has the option to appeal this decision to the South Carolina Supreme Court.

The South Carolina Supreme Court remanded two additional cases for further appellate review proceedings (**Kenneth Simmons** and **Louis Winkler**).

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## DEATH PENALTY DECISION-MAKERS

Consistent with a national trend of replacing prosecutors in heavy-use death penalty counties, the deadliest prosecutor in South Carolina decided not to run for reelection in 2016 and will be replaced in January of 2017.<sup>1</sup> Solicitor Donald Myers has been the solicitor for the Eleventh Judicial Circuit (Lexington, Edgefield, McCormick, and Saluda Counties) since 1977. In his position he made the death penalty seeking decision in every homicide that occurred in the Eleventh Circuit for nearly four decades (the entire modern era of the death penalty). In that capacity, he sought and obtained death sentences at a higher rate than any other solicitor in South Carolina. He, personally, obtained 39 death sentences (the next closest solicitor obtained only 16). Myers was also the most reversed solicitor in death penalty cases, often because of his own misconduct, and 30 of the 39 death sentences he obtained have been overturned on appeal. In January of 2017, the Eleventh Circuit will have a new solicitor, Rick Hubbard.

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<sup>1</sup> Death Penalty Information Center, The Death Penalty in 2016: Year End Report, <http://deathpenaltyinfo.org/YearEnd2016>

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## LEGISLATIVE ACTIVITY

No new death penalty legislation was passed into law in 2016, 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). Neither bill made it out of committee in the 2016 legislative session.

In December of 2016, a bill was pre-filed proposing to add an aggravating factor to the death penalty statute. This bill would expand the types of crimes that are eligible for the death penalty beyond the already expansive list. Currently, there are twenty-two circumstances that make a murder death eligible and this would make a twenty-third. Studies by Justice 360 have shown that under the current statute, over  $\frac{3}{4}$  of all homicides are death eligible, which we believe fails to narrow the use of the death penalty to the "worst of the worst" as required by the Supreme Court. Despite the fact that no death row inmate has completed their legal proceedings and is awaiting execution, Justice 360 anticipates there may be bills proposed to change the viable methods of execution in South Carolina due to the national shortage of execution drugs. Possible proposals might include the firing squad or gas chamber.

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The Justice 360 legal team pictured after arguments at U.S. District Court, U.S. Court of Appeals (Fourth Circuit) the S.C. Supreme Court and a General Sessions victory.

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The mission of Justice 360 is to promote fairness, reliability & transparency in the criminal justice system for people facing the death penalty in South Carolina.

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