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# THE DEATH PENALTY IN NEW YORK: AN HISTORICAL PERSPECTIVE

*Michael Lumer and Nancy Tenney\**

## INTRODUCTION

After more than three decades without an execution in New York, on March 7, 1995, Governor George Pataki signed a law reintroducing the death penalty into New York's criminal justice system.<sup>1</sup> Prior to Governor Pataki's election, the anti-death penalty stance of Governors Hugh Carey and Mario Cuomo guaranteed that all legislative attempts to restore capital punishment would be vetoed.<sup>2</sup> As a candidate, Pataki made his support of capital punishment a prominent campaign theme and it seems clear that a majority of New Yorkers endorsed the death penalty through their votes in the 1994 gubernatorial elections.<sup>3</sup> It remains to be seen,

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<sup>1</sup> Death Penalty—Impositions and Procedures—Assignment of Counsel [hereinafter Death Penalty Act] 1995 N.Y. LAWS 1; Adam Nossiter, *In New York City, A Mixed Response to Law from Prosecutors*, N.Y. TIMES, Mar. 8, 1995, at B5. The last execution in New York was in 1963. See the Appendix which follows this article.

<sup>2</sup> James Dao, *Pataki and State Leaders Agree on Details of a Plan to Restore Death Penalty*, N.Y. TIMES, Feb. 16, 1995, at A1.

<sup>3</sup> State Assemblyman Frank Barbaro stated that he believes his constituents voted for Governor George Pataki primarily because "they were voting for the death penalty." Michael Tomasky, *Meet the Beadle*, VILLAGE VOICE, Apr. 11, 1995, at 27. Barbaro's viewpoint is supported, for example, by one Pataki campaign advertisement which featured the mother of a murder victim accusing

however, whether public opinion will support frequent use of the new statute. More important, perhaps, though not unrelated to the views of the electorate, is the question of how local district attorneys will choose to use it.<sup>4</sup>

Clues to the death penalty's future application can be found by examining New York's historical relationship to capital punishment. Although today the highest number of executions each year occur in the Southern "death belt" states,<sup>5</sup> it is important to remember that in 1890 New York became the first state to use the electric chair, that New York has executed more prisoners since 1890 than any other state<sup>6</sup> and that New York has executed the most people who later were proven innocent.<sup>7</sup> This article offers an overview of the modern history of the death penalty in New York with the hope that this past experience can illuminate potential pitfalls in the 1990s death penalty revival.

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then-Governor Mario Cuomo of not caring about violent crime or its victims. *See* Nossiter, *supra* note 1, at B5.

<sup>4</sup> Whether or not to seek the death penalty is a decision that lies within the district attorney's discretion. *See generally* Tina Rosenberg, *The Deadliest D.A.*, N.Y. TIMES, July 16, 1995, § 6 (Magazine), at 21 ("It's local prosecutors, not judges or governors, who most often decide which criminals live or die for their crimes."). *See also infra* notes 139-41.

<sup>5</sup> The "death belt" states include Georgia, Florida, Alabama and Texas. Tamar Lewin, *Who Decides Who Will Die? Even Within States, It Varies*, N.Y. TIMES, Feb. 23, 1995, at A1. *See also infra* note 137.

<sup>6</sup> Even today, despite not having executed a prisoner since 1963, New York still ranks the highest for total state executions, even when post-1976 figures are included. *See infra* Table 2. In addition, on over 150 occasions, New York executed more than one person on a given day, and on some dates as many as six individuals were electrocuted on a single day. *See* Appendix.

Throughout this article, "state executions" refers to executions carried out by the state under a centralized penal system. Generally speaking, historians have used four different classifications to categorize executions. *See generally* RAYMOND PATERNOSTER, CAPITAL PUNISHMENT IN AMERICA 7-8 (1991). The other three categories include federal cases where the defendant is sentenced by the federal government for a federal crime; sentences carried out under local authority prior to the consolidation of penal systems under a single state body; and lynchings, quasi-legal and otherwise. It is interesting to note that local executions outnumbered executions pursuant to state authority until 1910. *Id.* at 4.

<sup>7</sup> *See infra* note 104.

Part I traces the evolution of New York's capital punishment statutes through 1995. This section illustrates that times of strong popular support led to the most expansive statutes and the highest execution rates, and conversely, when public demand flagged, the legislature narrowed the scope of capital crimes.<sup>8</sup> The history presented in part I, intended primarily as background for the subsequent statistical analysis, relies heavily on the extensive research found in Professor James R. Acker's article, *New York's Proposed Death Penalty Legislation: Constitutional and Policy Perspectives*,<sup>9</sup> which should be consulted by readers seeking a more detailed statutory history.

Part II analyzes the 695 executions that took place in New York between 1890 and 1963 based on new research provided to Brooklyn Law School by M. Watt Espy, a leading death penalty researcher.<sup>10</sup> We evaluate the overall number of executions as well as the race, gender and age of the defendants; the race of the victims; and the geographical breakdown of these executions. Our most disturbing findings reveal the apparently pivotal role that race played in determining which defendants would be condemned to die. Although New York has not executed a prisoner in over thirty years, its historical patterns, especially when coupled with current political and popular enthusiasm for the death penalty, offer ominous warning signs as the state re-enters the death penalty arena.

## I. THE EVOLUTION OF NEW YORK'S CAPITAL PUNISHMENT STATUTE

In 1888, New York became the first state both to centralize its system of capital punishment and to designate the electric chair as

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<sup>8</sup> See *infra* notes 57, 65-70 and accompanying text.

<sup>9</sup> James R. Acker, *New York's Proposed Death Penalty Legislation: Constitutional and Policy Perspectives*, 54 ALB. L. REV. 515 (1990).

<sup>10</sup> M. Watt Espy is the founder of the Capital Punishment Research Project and his work documenting American executions is considered "legendary among death penalty researchers." See Victor L. Streib, *Death Penalty for Female Offenders*, 58 U. CINN. L. REV. 845, 848 (1990); see also Appendix.

its method for imposing death.<sup>11</sup> Consequently, New York was the first state to abandon completely all local executions in favor of "state executions."<sup>12</sup> Over the following decades, New York aggressively sought the death penalty under increasingly broad statutory authority until waning support among both the public and the courts led to its declining use in the 1940s and 50s, and ultimately to its abolition in the 1960s.<sup>13</sup> During the years that New York State had a death penalty, its capital statute underwent several substantial changes which provide a useful backdrop for appreciating present-day attempts to craft a constitutional and non-discriminatory capital law, as well as a demonstration of the direct effect of political and popular sway on the implementation of such statutes.

#### *A. The Death Penalty in New York: 1888 to 1963*

The introduction of the electric chair in New York was a by-product of the state's decision to centralize its system of capital punishment. The legislative process behind the passage of the new law was typical of how capital punishment statutes reflect the popular events of the day. During the 1880s, as the New York legislature was preparing to eliminate local executions altogether, the state investigated emerging technologies in search of a "more humane" method of execution than hanging.<sup>14</sup> The electric chair

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<sup>11</sup> In 1864, Vermont was the first state to execute a prisoner under state authority. PATERNOSTER, *supra* note 6, at 7. However, New York was the first state to institutionalize a preemptive state system for imposing the death penalty by means of electrocution, thus eliminating all local executions. Acker, *supra* note 9, at 517-18 n.13-15. Different states moved from local to state executions at different points in time. Nevertheless, while in the 1890s local executions accounted for 86% of all executions, by the 1920s, only 21% of executions were carried out pursuant to local authority. PATERNOSTER, *supra* note 6, at 4.

<sup>12</sup> See *supra* note 6 (discussing the distinction between state and local executions).

<sup>13</sup> See *infra* Table 1.

<sup>14</sup> The process of hanging was an inexact science and often led to either decapitation or slow strangling. See, e.g., LAWRENCE M. FRIEDMAN, CRIME AND PUNISHMENT IN AMERICAN HISTORY 170 (1993); RANDALL CAYNE & LYN ENTZEROTH, CAPITAL PUNISHMENT AND THE JUDICIAL PROCESS 23-24 (1994).

appeared to offer a swifter and more reliable means of inflicting death.<sup>15</sup>

Electricity's potential to eliminate the uncertain results of hanging was especially alluring given the high profile that this technology was enjoying at the time. While the state was considering the possibility of turning to electrocution, Thomas Edison and George Westinghouse were competing to sell their respective electrical systems to New York, as well as to the rest of the country.<sup>16</sup> Edison offered a direct current system ("DC"), while Westinghouse proposed an alternating current system ("AC").<sup>17</sup> Although Edison claimed to be personally opposed to capital punishment, he promoted the use of an electric chair powered by Westinghouse's current to gain commercial acceptance of his own electrical system.<sup>18</sup> Edison hoped to associate the AC current with the lethal power of the electric chair and thus frighten potential residential consumers away from the Westinghouse system.<sup>19</sup> His marketing efforts included public executions of dogs and other animals, as well as more traditional political means.<sup>20</sup>

In 1888, the legislature, convinced that the electric chair offered a meaningful improvement to contemporary methods of execution, passed a comprehensive capital punishment statute that mandated death by electrocution.<sup>21</sup> Subsequently, the nation's first

<sup>15</sup> THE DEATH PENALTY IN AMERICA 15 (Hugo Adam Bedau, ed., 3d ed. 1982) [hereinafter DEATH PENALTY IN AMERICA].

<sup>16</sup> *Id.*

<sup>17</sup> Ben MacIntyre & Martin Fletcher, *Electric Chair and a Legacy of Corporate Battle*, THE TIMES, Apr. 7, 1995, available in LEXIS, NEXIS Library, CURNWS File; Steve Jones, *The Perfect Electric Chair? Send for Mr. Edison*, DAILY TELEGRAPH, Feb. 8, 1995, at 16.

<sup>18</sup> Jones, *supra* note 17, at 16.

<sup>19</sup> Indeed, George Westinghouse's alternating current system ("AC") utilized a stronger current that could travel farther and provide greater power than Thomas Edison's. In response, Edison had often claimed that AC was more dangerous than his own DC system. Thus, arguing that Westinghouse's electricity was appropriate for executions was a natural extension of Edison's competitive sales pitch. See MacIntyre & Fletcher, *supra* note 17.

<sup>20</sup> Jones, *supra* note 17, at 16.

<sup>21</sup> Acker, *supra* note 9, at 517 n.13 (citing the Act of June 4, 1888, ch. 489, sec. 5, § 505, 1888 N.Y. LAWS 778, 780); see also *People ex. rel. Kemmler v. Durston*, 119 N.Y. 569, 575, 24 N.E. 6, 7 (1890) ("The punishment of death

electrocution took place in New York on August 6, 1890.<sup>22</sup> Earlier that year, William Kemmler had been charged with the murder of his common law wife.<sup>23</sup> Less than six weeks after the murder, Kemmler's trial began, and within one week he had been tried, convicted and sentenced to die.<sup>24</sup>

In the appeal of his conviction, funded by Westinghouse,<sup>25</sup> Kemmler challenged electrocution as an unconstitutional cruel and unusual form of punishment.<sup>26</sup> The New York Court of Appeals, however, relied on the state legislature's conclusion that the untested electric chair was "more humane" than hanging.<sup>27</sup> The court unanimously held that although electrocution was "certainly unusual," it was not demonstrated to be cruel, because there was no "reasonable doubt that the application of electricity to the vital parts of the human body, under such conditions and in the manner contemplated by the statute, must result in instantaneous, and consequently, in painless death."<sup>28</sup>

Despite the court's confidence in the effectiveness of this new technology, the nation's first electrocution was by all accounts a disaster.<sup>29</sup> Even with the professional assistance of Edison, who personally wired and prepared the chair for the execution, the first wave of electricity failed to kill Kemmler, forcing the executioner

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must, in every case, be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict is dead.").

<sup>22</sup> Jones, *supra* note 17, at 16; John G. Leyden, *Death in the Hot Seat: A Century of Electrocutions*, WASH. POST, Aug. 5, 1990, at D5.

<sup>23</sup> See *People ex. rel. Kemmler v. Durston*, 119 N.Y. 569, 24 N.E. 6 (1890) (addressing defendant's state constitutional claims); *People v. Kemmler*, 119 N.Y. 580, 24 N.E. 9 (1890) (addressing factual issues presented by the defense).

<sup>24</sup> Leyden, *supra* note 22, at D5.

<sup>25</sup> Jones, *supra* note 17, at 16; MacIntyre & Fletcher, *supra* note 17.

<sup>26</sup> *People ex. rel. Kemmler v. Durston*, 119 N.Y. at 573, 24 N.E. at 6.

<sup>27</sup> See *id.* at 578-79, 24 N.E. at 8 (relying, in part, on the state legislature's careful investigation into the use of the electric chair as a more humane method of execution to reject a state constitutional challenge to the 1888 statute). Similarly, the United States Supreme Court agreed that death by electrocution would be an "instantaneous, and therefore painless, death." *In re Kemmler*, 136 U.S. 436, 443 (1890).

<sup>28</sup> *People ex. rel. Kemmler v. Durston*, 119 N.Y. at 578, 24 N.E. at 8.

<sup>29</sup> See, e.g., Jones, *supra* note 17, at 16; Leyden, *supra* note 22, at D5.

to give him a second jolt that lasted seventeen seconds.<sup>30</sup> The prolonged second charge succeeded as the sustained wave of current “literally roasted [Kemmler] to death.”<sup>31</sup> Commentators reported that the smell of burning flesh was so powerful that the prosecutor ran from the room and collapsed in the hallway.<sup>32</sup> The grisly debacle was shocking enough to provoke reporters who witnessed the event to call for an immediate end to electrocutions.<sup>33</sup>

Although New York failed to achieve its stated objective of a more compassionate execution, it proceeded to employ the electric chair with increasing abandon. With each passing decade through the 1930s, New York executed more and more prisoners.<sup>34</sup> Indeed, no state executed more people under state authority during this era than New York.<sup>35</sup>

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<sup>30</sup> Jones, *supra* note 17, at 16.

<sup>31</sup> Jones, *supra* note 17, at 16.

<sup>32</sup> Leyden, *supra* note 22, at D5.

<sup>33</sup> Many newspapers that had sent reporters to cover the historic event criticized the brutality of the electric chair. Jones, *supra* note 17, at 16. For instance, the *New York Herald* called Kemmler’s execution, “death by torture.” Adam Z. Horvath, *Attention Again Focuses on Electric Chair*, *NEWSDAY*, June 20, 1989, at A3. *See also* Leyden, *supra* note 22, at D5.

Over time, numerous botched executions made clear that the electric chair failed to render capital punishment truly “more humane.” *See* Jones, *supra* note 17, at 16. In fact, the electric chair’s failure to provide a swift or painless death prompted many states, including New York, to return to science in search of an improved means of imposing death, such as lethal injection. DEATH PENALTY IN AMERICA, *supra* note 15, at 16-18; Death Penalty Act § 32, 1995 N.Y. LAWS at 20-24 (repealing N.Y. CORRECT. LAW art. 22-B (McKinney 1987 & Supp. 1995) and amending the Correction Law by adding a new Article 22-B). The irony of continuously using scientific advancements to facilitate state sanctioned killings prompted Judge Joseph W. Bellacosa of the New York Court of Appeals to label lethal injection as the latest “fanfare for final departure”—noting euphemistic attempts to make the process sound more soothing, and somehow less lethal. Joseph W. Bellacosa, “Revelations from Death Penalty Legal Representation Records,” Remarks at the Special Committee on Capital Representation of the Association of the Bar of the City of New York 5 (May 22, 1995) (transcript on file with the *Journal of Law and Policy*).

<sup>34</sup> *See infra* Table 1.

<sup>35</sup> *See* WILLIAM BOWERS, *LEGAL HOMICIDE* 395-523 app. A (1984) (providing an inventory of executions under state authority). Again, it should be



*B. Statutory Evolution From 1890 to 1963*

New York's decade-by-decade increase in executions up through the 1930s reflected the national public sentiment, which was evidenced by the escalating use of the death penalty nationwide during this period.<sup>36</sup> Public support, however, only partially explains New York's high execution rate during this period. The first degree murder statute drafted in 1888 was exceptionally broad, allowing for nearly all homicides to be classified as capital murder.<sup>37</sup> The statute included any premeditated and deliberate killing, as well as all felony murders and those committed with a "depraved mind."<sup>38</sup> Not only did the statute potentially cover a wide range of homicides, a conviction also carried a mandatory death sentence.<sup>39</sup> Thus, the 1888 statute enabled the state to seek the death penalty for virtually all murders, with a guaranteed death sentence if the defendant was convicted.

The mandatory death sentence, combined with the ambiguity of the terms such as "premeditated" and "depraved mind," created an interesting paradox. While the mandatory sentence seemingly eliminated the potential for arbitrary sentencing, the statute actually left a tremendous amount of unbridled discretion to both prosecutors and juries. The prosecutors' discretion lay in their authority to choose between first and second degree murder when initially charging a defendant, and in whether to charge for lesser

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stressed that M. Watt Espy, who compiled the figures in Professor Bowers' book, included only executions under "state authority" in this count. *See supra* note 6.

<sup>36</sup> There were 1,015 executions carried out nationwide under state authority in the 1920s, while 1,667 people were executed in the 1930s. *PATERNOSTER*, *supra* note 6, at 4 tbl. 1.1, 10 tbl. 1.2; *DEATH PENALTY IN AMERICA*, *supra* note 15, at 56-57 tbl. 2-3-1; *BOWERS*, *supra* note 35, at 54 tbl. 2-3.

<sup>37</sup> *See Acker*, *supra* note 9, at 518.

<sup>38</sup> *See Acker*, *supra* note 9, at 518 n.18-20. The statute also included treason as a capital offense, but to date New York State has never prosecuted anyone under this provision. *See Appendix*. Ethel and Julius Rosenberg, executed in New York State for espionage in 1953, were prosecuted by the federal government under federal law. *See United States v. Rosenberg*, 195 F.2d 583 (2d Cir.), *cert. denied*, 344 U.S. 838 (1952).

<sup>39</sup> *See Acker*, *supra* note 9, at 518-19.

included offenses. For prosecutors seeking to impose the death penalty, it was often in their interest not to include the lesser offense of second degree murder so that juries were left with a binary choice between capital murder or outright acquittal.<sup>40</sup>

Moreover, even when prosecutors included a lesser offense, the statute failed to define adequately the distinction between first and second degree murder and thus juries could easily arrive at different verdicts for similarly situated defendants.<sup>41</sup> Because the statute left juries with no significant guidance regarding which charge was more appropriate, juries could make their determination based on factors outside the evidence presented, such as the race, ethnicity or social class of the defendant and the victim.<sup>42</sup> Indeed, the muddled legal distinction between first and second degree murder prompted Justice Benjamin Cardozo to note:

I think the distinction is much too vague to be continued in our law . . . . The present distinction is so obscure that no jury hearing it for the first time can fairly be expected to assimilate and understand it. I am not at all sure that I understand it myself after trying to apply it for many years and after diligent study of what has been written in the books. Upon the basis of this fine distinction with its mystifying psychology, scores of men have gone to their deaths.<sup>43</sup>

Despite the broad scope of the 1888 statute and the high rate of executions, New York amended its capital punishment statute in two significant respects in the early 1930s, each designed to further increase the number of death sentences imposed. First, the

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<sup>40</sup> See generally *Beck v. Alabama*, 447 U.S. 625 (1980) (specifying when a lesser included offense charge must be given in capital cases); see *infra* notes 51-52 and accompanying text for a further discussion of jury nullification and mandatory sentencing.

<sup>41</sup> DEATH PENALTY IN AMERICA, *supra* note 15, at 5.

<sup>42</sup> Beginning with *Furman v. Georgia*, the United States Supreme Court has stated that capital murder statutes which allow for impermissible factors such as race to be considered by juries in their deliberations are unconstitutional. 408 U.S. 238 (1972). Nevertheless, such issues were not fully addressed by the courts during the 1890 to 1963 time-span of New York's capital era.

<sup>43</sup> DEATH PENALTY IN AMERICA, *supra* note 15, at 5.

legislature expanded the statute to include as a capital offense kidnapping where the victim had not been produced alive by the time of trial.<sup>44</sup> This reform was prompted by the infamous Lindbergh baby kidnapping and the trial of Bruno Hauptmann in New Jersey.<sup>45</sup> Although the body of the kidnapped child was never found, New Jersey successfully convicted Hauptmann under its first degree murder statute.<sup>46</sup> New York's original statute, however, would have required actual proof of murder through the recovery of a body in such a case.<sup>47</sup> While the inclusion of such kidnappings under New York's capital punishment statute ultimately had little impact on criminal prosecutions,<sup>48</sup> the amendment demonstrates the willingness of the state legislature to adjust the statute to cater to immediate political expediencies and public opinion.

The second statutory reform of the decade was more significant. Twice in the 1930s, the sentencing procedure was amended so that by 1937 juries were permitted to make a sentencing recommendation of either death or a term of imprisonment for almost all capital offenses.<sup>49</sup> While the recommendation was not binding on the trial court, New York courts generally gave great deference to the juries' findings.<sup>50</sup>

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<sup>44</sup> Acker, *supra* note 9, at 520.

<sup>45</sup> BOWERS, *supra* note 35, at 34 (following the death of the kidnapped Lindbergh baby, kidnapping was elevated to a capital offense in two dozen states during the 1930s).

<sup>46</sup> See *State v. Hauptmann*, 115 N.J.L. 412, 180 A. 809 (1935) (affirming Bruno Hauptmann's conviction of murder in the first degree).

<sup>47</sup> Acker, *supra* note 9, at 520.

<sup>48</sup> Only two people were ever executed under the kidnapping provision. See *People v. Sacoda*, 281 N.Y. 827, 24 N.E.2d 490 (1939) (affirming convictions of Joseph S. Sacoda and Demetrius Gula); see also Appendix.

<sup>49</sup> Acker, *supra* note 9, at 520. The addition of the sentencing recommendation was initially limited to the 1933 kidnapping provision. In 1937, the sentencing recommendation requirement was extended to felony murder and depraved mind killings as well. Acker, *supra* note 9, at 520. The mandatory sentence remained in effect, however, for deliberate and premeditated killings until 1963. Acker, *supra* note 9, at 521-23.

<sup>50</sup> Acker, *supra* note 9, at 520 n.30.

Although the shift away from mandatory sentencing initially appears to favor defendants for the obvious reason that a capital conviction no longer mandated execution, the state was not motivated by compassion for capital defendants. Rather, the reform reflected the state's concern that guilty defendants were being acquitted due to jury nullification.<sup>51</sup> The state was concerned that in many instances where no lesser included offense was charged, juries had acquitted defendants because they felt a death sentence was not warranted, even in the face of certain guilt.<sup>52</sup>

Armed with this revised version of an already broad statute, it is not surprising that the 1930s was the busiest decade for New York executioners. Overall, New York electrocuted 153 people during that decade—a rate of over fifteen people per year.<sup>53</sup> A look at Georgia illustrates how high this number is—Georgia had the highest per year average of state executions prior to 1976, averaging about ten executions per year.<sup>54</sup> These numbers demonstrate that New York prosecutors and juries had no difficulty in charging, convicting and executing people in relatively large numbers under New York's former death penalty provision.

While the 1930s were the high watermark for New York executions, the state still put 114 people to death in the 1940s<sup>55</sup> before slowing to fifty-five electrocutions during the 1950s.<sup>56</sup> Scholars explained this downward trend in executions as the result of plummeting public approval for capital punishment<sup>57</sup> and a decrease in the overall number of homicides.<sup>58</sup> The decline of capital punishment's popularity within New York is evidenced by

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<sup>51</sup> PATERNOSTER, *supra* note 6, at 6; Acker, *supra* note 9, at 521 n.31.

<sup>52</sup> Acker, *supra* note 9, at 521. The jury never actually had imposed the sentence. Where a conviction under a statute mandated death, however, it is reasonable to assume that a jury believed it was responsible for the death sentence if it convicted the defendant.

<sup>53</sup> See *infra* Table 1.

<sup>54</sup> From 1924 to 1964, Georgia executed 422 people. See *infra* Table 2; see also BOWERS, *supra* note 35, app. A. at 427.

<sup>55</sup> See *infra* Table 1 and Appendix.

<sup>56</sup> See *infra* Table 1 and Appendix.

<sup>57</sup> THE DEATH PENALTY IN AMERICA: CURRENT RESEARCH 114-17 (1991) [hereinafter CURRENT RESEARCH].

<sup>58</sup> PATERNOSTER, *supra* note 6, at 9-11.

the fact that every year from 1950 to 1962, the legislature introduced bills to abolish the death penalty.<sup>59</sup> In a continuation of the death penalty's decline, New York saw only nine executions in the early 1960s, before Eddie Lee Mays became the last person to be executed by the state in 1963.<sup>60</sup>

### C. New York Legislation From 1963 to 1977

In 1963, the year of Mays' death, the state legislature passed several amendments that profoundly altered New York's capital punishment legislation.<sup>61</sup> The Act of 1963 extended discretionary sentencing to premeditated and deliberate killings, and thus to all first degree murder cases,<sup>62</sup> and made the jury's sentencing recommendation binding on the court.<sup>63</sup> The legislature also prohibited capital punishment for offenders under the age of eighteen and allowed the judge to discharge the jury and sentence a defendant to life imprisonment if the court believed that death was unwarranted due to mitigating factors.<sup>64</sup>

Significantly, New York also became one of only four states at that time to employ bifurcated trials in capital cases.<sup>65</sup> New York's bifurcated process called for dividing first degree murder

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<sup>59</sup> Acker, *supra* note 9, at 522 n.39.

<sup>60</sup> See *infra* Table 1 and Appendix.

<sup>61</sup> Act of May 3, 1963, ch. 994, § 1, 1963 N.Y. LAWS 3018.

<sup>62</sup> Acker, *supra* note 9, at 522-23. Prior to the Act of 1963, the statute still required mandatory death sentences for premeditated and deliberate killings. After the amendment, only treason brought an automatic capital sentence upon conviction. Acker, *supra* note 9, at 523 n.40.

<sup>63</sup> Acker, *supra* note 9, at 523.

<sup>64</sup> Acker, *supra* note 9, at 523 & n.44. In addition, the Act of 1963 allowed defendants who plead guilty to first degree murder to receive a life sentence although defendants were only allowed to enter a guilty plea with the consent of the court and district attorney. Acker, *supra* note 9, at 523 n.45. A similar provision exists in the recently enacted capital murder statute. Death Penalty Act § 10, 1995 N.Y. LAWS at 4 (amending N.Y. CRIM. PROC. LAW § 220.10(5)(e) (McKinney 1993)); Death Penalty Act § 20, 1995 N.Y. LAWS at 6-12 (amending the Criminal Procedure Law by adding a new § 400.27)).

<sup>65</sup> Acker, *supra* note 9, at 523-24 & n.46 (citing California, Connecticut and Pennsylvania as the only other states besides New York which used bifurcated trials).

trials into two phases—first, a trial to decide the defendant's guilt or innocence followed by a second proceeding, if necessary, to determine the appropriate punishment.<sup>66</sup> Bifurcation thus allowed defendants to fully contest guilt at the first stage and then, if found guilty, to present mitigating evidence at a separate hearing.<sup>67</sup> This process enabled juries to determine a defendant's guilt without simultaneously having to consider the punishment that would follow a conviction.

Bifurcated trials also resolved an otherwise unavoidable dilemma for defendants. Although mitigating evidence is crucial for convicted defendants seeking to convince the jury not to impose a death sentence, mitigation is premised on the guilt of the defendant. Thus, prior to the adoption of the bifurcated trial procedure, defendants had to choose between conceding guilt by presenting mitigating evidence or withholding such evidence altogether. This 1963 reform, now employed by all states that apply capital punishment,<sup>68</sup> demonstrates the seriousness with which New York was examining its statute and the unique nature of capital cases.

By 1965, the Temporary Commission on Revision of the Penal Law and Criminal Code recommended that "capital punishment in the State of New York be abolished by appropriate legislation with an immediately effective date."<sup>69</sup> While total abolition was not forthcoming, legislation enacted that year so severely narrowed the class of offenders eligible for the death penalty that it essentially eliminated capital punishment in New York.<sup>70</sup> The Act of 1965 limited the death penalty to deliberate and premeditated murders where the victim was a peace officer killed in the course of duty

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<sup>66</sup> Acker, *supra* note 9, at 523-24.

<sup>67</sup> Governor Nelson Rockefeller suggested bifurcated trials after learning that a youthful offender had been sentenced to die without consideration of any mitigating factors. Acker, *supra* note 9, at 524.

<sup>68</sup> WELSH S. WHITE, *THE DEATH PENALTY IN THE NINETIES: AN EXAMINATION OF THE MODERN SYSTEM OF CAPITAL PUNISHMENT* 73 (1992).

<sup>69</sup> Acker, *supra* note 9, at 524. The Temporary Commission on Revision of the Penal Law and Criminal Code was chaired by Richard J. Bartlett, a Republican assemblyman from upstate New York. Acker, *supra* note 9, at 524-25 n.49.

<sup>70</sup> Acker, *supra* note 9, at 525-26.

and to defendants who killed while already serving a life sentence.<sup>71</sup> Although the new law limited the class of crimes that were punishable by death, it retained the procedural reforms of the 1963 statute, and thus still required a bifurcated trial. In addition, following the new bill's passage, Governor Nelson Rockefeller commuted the death sentences of all the inmates on death row who, at the time, would not have been eligible for the death penalty under the new law.<sup>72</sup>

Just as opponents of the death penalty had repeatedly attacked the capital statute over the preceding fifteen years,<sup>73</sup> capital punishment supporters began to move more vigorously to counter the recent restrictive amendments. In 1967, New York expanded the class of offenses punishable by death again to include felony murder as a capital crime.<sup>74</sup> Nationally, however, a moratorium on the death penalty was in place as a result of constitutional challenges being raised in state and federal courts.<sup>75</sup> Consequently, New York placed the death penalty on hold while the constitutional issues raised by these rulings were resolved.<sup>76</sup>

In 1972, the United States Supreme Court's decision in *Furman v. Georgia*<sup>77</sup> ushered in a new era of capital jurisprudence. In *Furman*, the Court found that statutes which granted juries unfettered or unregulated discretion had resulted in death sentences being imposed in an arbitrary and capricious manner in violation of the Eighth Amendment.<sup>78</sup> The ruling had the effect of invalidating capital statutes across the country, and the New York Court of Appeals was left with little choice but to strike down the New York statute in the next case to challenge the law under *Furman*.<sup>79</sup>

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<sup>71</sup> Act of June 1, 1965, ch. 321, 1965 N.Y. LAWS 1.

<sup>72</sup> See Acker, *supra* note 9, at 526.

<sup>73</sup> See Acker, *supra* note 9, at 522.

<sup>74</sup> Acker, *supra* note 9, at 527 nn.65-68.

<sup>75</sup> BOWERS, *supra* note 35, at 172-73.

<sup>76</sup> BOWERS, *supra* note 35, at 172-73.

<sup>77</sup> 408 U.S. 238 (1972).

<sup>78</sup> *Id.* at 314.

<sup>79</sup> *People v. Fitzpatrick*, 32 N.Y. 499, 300 N.E. 139, 346 N.Y.S. 793, *cert. denied*, 414 U.S. 1033 (1973).

While leaving the door open for new capital statutes, the Supreme Court in *Furman* had not specified the type of statute that would meet modern constitutional standards and thus there was great confusion among states looking to retain some form of capital punishment. Some states created sentencing schemes that guided the sentencing body's discretion, while others chose to implement mandatory sentencing which appeared to eliminate discretion altogether.<sup>80</sup> New York's 1974 statute fell in the latter category by returning to automatic death sentences for any intentional murder of a police or corrections officer, or a killing committed by an inmate already serving a life sentence.<sup>81</sup>

In choosing to employ a mandatory scheme rather than one based on guided discretion, New York miscalculated the Supreme Court's approach towards resolving the inter-related issues of discretion and arbitrariness. In 1976, the Supreme Court approved various guided discretion statutes,<sup>82</sup> while finding that statutes requiring mandatory death sentences were unconstitutional under the Eighth and Fourteenth Amendments because they precluded individualized sentencing.<sup>83</sup> The Court emphasized that not all persons convicted of first degree murder were necessarily deserving of death, and that all defendants were entitled to an individualized review.<sup>84</sup> In addition, the Court found that the problem of jury nullification, which the New York legislature had addressed forty years earlier,<sup>85</sup> persisted under mandatory sentencing schemes.<sup>86</sup> Because mandatory sentences would be unguided by judicial direction, jury nullification posed the same risk that the jury would make an "arbitrary and capricious decision" in its application of the death penalty held intolerable in *Furman*.<sup>87</sup>

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<sup>80</sup> Acker, *supra* note 9, at 529-30; see also BOWERS, *supra* note 35, at 525-31 app. B (listing post-*Furman* legislative amendments).

<sup>81</sup> Acker, *supra* note 9, at 530.

<sup>82</sup> The Supreme Court approved three different state statutes in a series of 1976 rulings. See *Jurek v. Texas*, 428 U.S. 262 (1976); *Proffitt v. Florida*, 428 U.S. 242 (1976); *Gregg v. Georgia*, 428 U.S. 153 (1976).

<sup>83</sup> See *Woodson v. North Carolina*, 428 U.S. 280 (1976).

<sup>84</sup> *Id.* at 303.

<sup>85</sup> See *supra* notes 51-52 and accompanying text.

<sup>86</sup> *Woodson*, 428 U.S. at 293-98.

<sup>87</sup> *Id.* at 303.



Still, New York hoped that its especially narrow statute would survive. The Supreme Court's decision in *Roberts v. Louisiana*,<sup>88</sup> however, made clear that even if New York's capital statute included only a limited range of crimes, the mandatory sentencing scheme invalidated the entire law.<sup>89</sup> Basing its decision on *Roberts*, the New York Court of Appeals, in *People v. Davis*, held that New York's 1974 statute violated the Federal Constitution.<sup>90</sup> The *Davis* court, however, specifically refrained from ruling on whether murders committed by a life-term inmate still could require a mandatory death sentence.<sup>91</sup> This last provision was struck down in 1984, leaving New York State without a death penalty statute for the first time in nearly a century.<sup>92</sup>

#### D. 1977 to the Present

Following the court of appeals' 1977 ruling in *Davis*, the New York State Legislature immediately initiated efforts to enact a new, guided discretion death penalty law. Indeed, each year between 1978 and 1994, a bill reauthorizing the death penalty passed both the State Senate and Assembly only to be vetoed by either Governor Carey or Governor Cuomo.<sup>93</sup> The proposed statutes routinely offered a far more expansive capital scheme than that

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<sup>88</sup> 431 U.S. 633 (1977).

<sup>89</sup> *Id.* at 635, 637.

<sup>90</sup> 43 N.Y.2d 17, 371 N.E.2d 456, 400 N.Y.S.2d 735 (1977), *cert. denied*, 435 U.S. 998, *cert. denied*, 438 U.S. 914 (1978). The *Davis* decision consolidated two cases. In the first, *Davis*' conviction for first degree murder was reversed on factual grounds. *Id.* at 29, 371 N.E.2d at 462, 400 N.Y.S.2d at 741. In the second case, the defendant, Joseph James, was convicted for murdering a corrections officer. *Id.* at 28, 371 N.E.2d at 461, 400 N.Y.S.2d at 740. It was this sentence that the court of appeals formally stated was unconstitutional under the Supreme Court's ruling in *Roberts v. Louisiana*. *Id.* at 32, 371 N.E.2d at 463-64, 400 N.Y.S.2d at 743 (citing *Roberts v. Louisiana*, 431 U.S. 623 (1977)).

<sup>91</sup> *Id.* at 34, 371 N.E.2d at 465, 400 N.Y.S.2d at 744.

<sup>92</sup> *People v. Smith*, 63 N.Y.2d 41, 468 N.E.2d 879, 489 N.Y.S.2d 706 (1984), *cert. denied*, 469 U.S. 1227 (1985); *see also* *Sumner v. Schuman*, 483 U.S. 66 (1987) (holding unconstitutional a mandatory death sentence for an inmate who kills while serving a life sentence).

<sup>93</sup> Acker, *supra* note 9, at 516 n.10, 536 n.125; Dao, *supra* note 2, at A1.

provided for in the laws struck down in 1977 and 1984.<sup>94</sup> Professor Acker attributes the state's reversion to such a broad approach to the "rising crime rate, the perceived utility and symbolic significance of capital punishment as a response to violent crime, and the desire among state legislators to assert their authority in the face of federal court decisions striking down their penal laws."<sup>95</sup>

It is worth noting that the legislators never believed that these proposals would become law. Given that both governors of this era unequivocally opposed the death penalty in any form, the legislature did not have to worry about the constitutionality of its proposed capital legislation.<sup>96</sup> Instead, prior to Governor Pataki's election, legislators could stake out a highly aggressive position on the death penalty, confident that any proposed bill would never go into effect, thus reducing the entire issue of capital legislation to a simplified *for* or *against* debate. The bill Governor Pataki signed on March 7, 1995, is far more expansive than New York's last operative statute, although its constitutional viability is still uncertain.<sup>97</sup>

## II. STATISTICAL ANALYSIS OF EXECUTIONS FROM 1890 TO 1963

This section provides a statistical analysis of the application of the death penalty in New York from 1890 through 1963. Based on the data listed in the Appendix which follows this article, the following discussion examines the number of executions by decade, the race of defendants and victims, the age and gender of defendants and the geographical breakdown of executions by county. The

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<sup>94</sup> Acker, *supra* note 9, at 516 & nn.8-9.

<sup>95</sup> Acker, *supra* note 9, at 534-35 & nn.116-19.

<sup>96</sup> Dao, *supra* note 2, at A1.

<sup>97</sup> For a further discussion of the statute and possible constitutional issues, see Mary R. Falk & Eve Cary, *Death Defying-Feats: State Constitutional Challenges to New York's Death Penalty*, 4 J. L. & POL'Y 161 (1995). See also Russell Neufeld, *Problems Defending Under New York's New Death Penalty Law*, 4 J. L. & POL'Y 143 (1995) (discussing the statute's impact on the defense bar).

findings provide some compelling insights into New York's history and, while not conclusive, the numbers strongly suggest that the social biases present in New York at any given time were manifested in the state's application of the death penalty.

### A. Total Executions

As seen in Table 1, beginning with William Kemmler's execution in 1890, New York executed an astonishing number of defendants, with the rate increasing each decade until the 1940s, when executions began to decline.<sup>98</sup> The decreasing number of executions in the 1940s, which continued steadily through the 1960s, reflects a national pattern—total state executions in the United States dropped from 1,667 in the 1930s to 1,284 in the 1940s, and from 717 in the 1950s to only 191 in the 1960s.<sup>99</sup>

Despite New York's congruity with national trends, New York's own execution rate consistently exceeded other states.<sup>100</sup> Table 2 shows that New York executed 695 people from 1890 through 1972,<sup>101</sup> significantly more than any other state, even when post-*Furman* figures are included.<sup>102</sup> In fact, over this nation's history, when state and local executions are combined, only Virginia has executed more people than New York.<sup>103</sup>

New York's execution rate also helped place the state first in another category—New York has executed eight people who were later conclusively proven to be innocent, by far the largest number of wrongful state executions in the nation.<sup>104</sup> At first blush it might appear that New York's trial and appellate processes failed

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<sup>98</sup> See *infra* Appendix and Table 1; see also Bowers, *supra* note 35, app. A at 395-523.

<sup>99</sup> DEATH PENALTY IN AMERICA, *supra* note 15, at 56-57 tbl. 2-3-1.

<sup>100</sup> See *infra* Table 2.

<sup>101</sup> See *infra* Table 2. This figure includes three persons executed in New York who were prosecuted pursuant to federal authority. See *infra* Appendix.

<sup>102</sup> See *infra* Table 2.

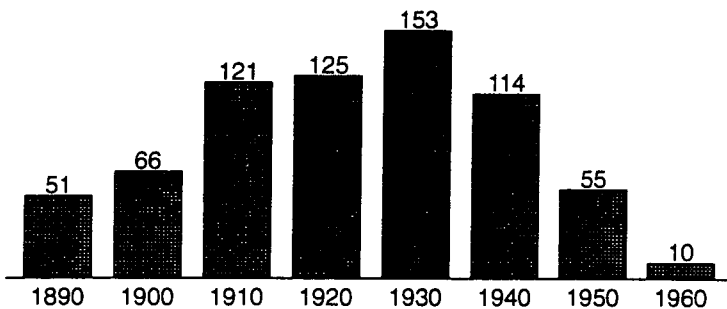
<sup>103</sup> Virginia is credited with 2,048 executions, while New York has executed 1,346 persons. George DeWan, *Eye for Eye, The Death Penalty in America*, NEWSDAY, Oct. 27, 1994, at A25.

<sup>104</sup> Hugo Adam Bedau & Michael L. Radelet, *Miscarriages of Justice in Potentially Capital Cases*, 40 STAN. L. REV. 21, 72 (1987).

at a higher rate than other states.<sup>105</sup> However, because New York applied the death penalty at a greater rate than virtually any other state, and because there is always the possibility that innocent people are convicted, it more likely illustrates that New York's high execution rate naturally resulted in a correspondingly high number of wrongful executions.

**TABLE 1**

*Executions in New York State by Decade*



Source: Appendix

**TABLE 2**

*Ten States with Highest Number of Aggregate Executions Through August 15, 1995*

	NY	CA	TX	GA	NC	PA	OH	VA	SC	FL
1890 - 1972	695	502	361	422	362	351	344	238	241	198
1976 - 1995	0	2	98	20	7	2	0	26	5	34
<b>TOTAL</b>	695	504	459	442	369	353	344	264	246	232

Source: Post-1976 figures provided by the National Coalition to Abolish the Death Penalty. 1890 to 1972 figures in WILLIAMS BOWERS, *LEGAL HOMICIDE* app. A (1984).

<sup>105</sup> Nearly all defendants appealed their convictions. BOWERS, *supra* note 35, at app. A.

TABLE 3

*Race of Defendants and Victims Between 1890 and 1963*

	1890 to 1899	1900 to 1909	1910 to 1919	1920 to 1929	1930 to 1939	1940 to 1949	1950 to 1959	1960 to 1969	Totals (%)
# EXECUTIONS	51	66	119	124	153	114	52	9	688 <sup>106</sup>
<i>RACE OF THE DEFENDANT</i>									
White Defendants	37	59	100	100	120	64	33	1	514 (74.4)
Black Defendants	13	7	16	18	27	43	15	7	146 (21.2)
Other	1	—	3	6	6	7	4	1	28 (3.3)
<i>RACE OF THE VICTIM</i>									
White Victims	45	64	106	116	143	97	44	6	621 (90.3)
Black Victims	5	2	11	2	8	9	6	1	44 (6.4)
Other	1	—	2	6	2	8	2	2	23 (3.3)
<i>RACE OF THE DEFENDANT/VICTIM</i>									
White x White	37	59	99	98	120	64	33	1	511 (74.3)
White x Black	—	—	1	—	—	—	—	—	1 (0.1)
White x Other	—	—	—	2	—	—	—	—	2 (0.3)

<sup>106</sup> The total number of executions is actually 695. The seven executions discussed above not included in this Table involved cases where the race of either the defendant or victim was not known, there were multiple victims of different races, or, in two instances, the defendants were executed for espionage.

	1890 to 1899	1900 to 1909	1910 to 1919	1920 to 1929	1930 to 1939	1940 to 1949	1950 to 1959	1960 to 1969	Totals (%)
<b>Black x White</b>	8	5	6	16	19	28	9	5	96 (14.0)
<b>Black x Black</b>	5	2	10	2	7	9	6	1	42 (6.1)
<b>Black x Other</b>	—	—	—	—	1	6	—	1	8 (1.2)
<b>Other x White</b>	—	—	1	2	4	5	2	—	14 (2.0)
<b>Other x Black</b>	—	—	—	—	1	—	—	—	1 (0.1)
<b>Other x Other</b>	1	—	2	4	1	2	2	1	13 (1.9)

Source: Appendix

**Table 4**  
*Population of New York State by Race*

	White	Black	Other	Total
<b>1890</b>	(98.68%) 5,924	(1.16%) 70	(0.15%) 9	6,003
<b>1900</b>	(98.45%) 7,157	(1.36%) 99	(0.18%) 13	7,269
<b>1910</b>	(98.38%) 8,967	(1.47%) 134	(0.14%) 13	9,114
<b>1920</b>	(97.95%) 10,172	(1.90%) 198	(0.14%) 15	10,385
<b>1930</b>	(96.54%) 12,153	(3.28%) 413	(0.17%) 22	12,588
<b>1940</b>	(95.56%) 12,880	(4.24%) 571	(0.21%) 28	13,479
<b>1950</b>	(93.54%) 13,872	(6.19%) 918	(0.27%) 40	14,830
<b>1960</b>	(91.09%) 15,287	(8.45%) 1,418	(0.46%) 78	16,782

Source: UNITED STATES BUREAU OF THE CENSUS, HISTORICAL STATISTICS OF THE UNITED STATES, COLONIAL TIMES TO 1970 32 (bicentennial ed. 1975)

*B. Race of Defendants Executed*

As illustrated in Table 3, 74% of all persons executed in New York from 1890-1963 were White, nearly 20% were Black,<sup>107</sup> and approximately 6% were Asian or Hispanic.<sup>108</sup> These percentages are consistent with most northern states' execution rates for this period, which show a significantly higher percentage of White defendants executed than southern states. In southern states during this era, typically 73% of defendants executed were Black.<sup>109</sup> For example, from 1930 to 1967, out of the 2,307 state executions in the south, 71.9% of the defendants executed were Black.<sup>110</sup> Another study found that from the 1600s through the 1980s, 71% of all defendants executed in the north and west were White, compared to only 29% in the south.<sup>111</sup>

While there were fewer Black defendants than White, Blacks were substantially over-represented on death row in proportion to their population within the state. As Tables 3 and 4 indicate, for example, while in the 1920s Blacks comprised only 1.9% of New York's population,<sup>112</sup> they represent 14% of those executed.<sup>113</sup> Similarly, during the 1930s the Black population in New York accounted for only 3.28% of all New York residents, yet Black

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<sup>107</sup> The term "Black" is used to parallel the statistics and data that were relied on for this article.

<sup>108</sup> The "other" category in Table 3 refers to Asian and Hispanic defendants and victims. Although the research provided by M. Watt Espy does provide significant details in terms of race and ethnicity, the overall numbers of defendants and victims outside of the Black and White categories were minimal. See Appendix. Moreover, the U.S. Census Bureau only kept population statistics for the categories of "White," "Black" and "other" until the latter half of this century, and thus more sophisticated data is not available for Table 4.

<sup>109</sup> CURRENT RESEARCH, *supra* note 57, at 11.

<sup>110</sup> DEATH PENALTY IN AMERICA, *supra* note 15, at 60-61 tbl. 2-3-2.

<sup>111</sup> DEATH PENALTY IN AMERICA, *supra* note 15, at 60-61 tbl. 2-3-2; see also CURRENT RESEARCH, *supra* note 57, at 11.

<sup>112</sup> See *supra* Table 4.

<sup>113</sup> See *supra* Table 3 and *infra* Appendix (indicating that 18 of the 125 convicted felons executed were Black; one defendant from this decade was not included in Table 3 because his race is unknown).

men constituted 17% of all persons executed during this time.<sup>114</sup> Moreover, as the Black population in New York continued to grow, the percentage of Black capital defendants rose disproportionately. By the 1960s, Black men comprised 80% of all capital defendants executed in New York while still representing only 8.45% of the state's population.<sup>115</sup>

In addition, although the comparative percentages of White and Black defendants might be construed by some to indicate less racial bigotry in New York's criminal justice system than in other states, New York's harsh treatment of immigrant groups belies this conclusion. While in the Deep South race has been perhaps the most prevalent form of bias in the application of capital punishment, in turn of the century New York at the most common targets of prejudice were the various immigrant groups arriving in significant numbers, most of which fell under the racial category of "White."<sup>116</sup> Although the list the Appendix does not specify ethnicity, the names indicate that many of the defendants executed

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<sup>114</sup> See *supra* Table 3 (illustrating that 27 of the 153 convicted felons executed were Black); see also *supra* Table 4.

<sup>115</sup> See *supra* Table 1 and Table 3, and *infra* Appendix (illustrating that eight of the ten people executed were Black; one case from this decade is not included in Table 3 because the race of the victim is unavailable); see also *supra* Table 4.

<sup>116</sup> See generally FREDERICK M. BINDER & DAVID M. REIMERS, *ALL THE NATIONS UNDER HEAVEN: AN ETHNIC AND RACIAL HISTORY OF NEW YORK CITY* (1995); NORMAN L. ZUCKER & NAOMI FLINK ZUCKER, *THE GUARDED GATE* (1987). For example, in 1908, New York City's police commissioner, Theodore Bingham, "exaggerated the extent and variety of crimes committed by immigrant Jews and Italians, [and] also argued that Jews had a particular 'propensity' for crime." BINDER & REIMERS, *supra* at 119-20. Commissioner Bingham was later forced to retract some of his more extreme allegations, "including the charge that Jews, who made up 25 percent of the city's population, constituted 50 percent of the criminal element." BINDER & REIMERS, *supra* at 120. Moreover, the media "imposed upon Italians in general an unwarranted reputation as criminals" that in 1904 resulted in the creation of a separate "Italian division" within the New York City Police Department to aggressively investigate crime in Italian neighborhoods. BINDER & REIMERS, *supra* at 139-40.



were members of then highly disfavored groups such as Jews, Italians and immigrants from Eastern and Central Europe.<sup>117</sup>

Moreover, simply reading the cases also reveals some of the ethnic prejudices that many defendants faced. For example, in *People v. Priori*,<sup>118</sup> an Italian defendant challenged his conviction, in part because the prosecutor invoked ethnic stereotypes when asking the jury to sentence the defendant to death. The district attorney instructed the jury:

These people are impulsive. Upon the slightest provocation human life is sacrificed. Without desiring to prejudice you against him because of his race,—and I beg you not to be prejudiced against him because of that,—yet that regard for human life is not with them as it is with us.<sup>119</sup>

The New York Court of Appeals ruled that because the district attorney withdrew his remarks after the defendant objected, “the error, if any, was merely technical, and should be disregarded upon . . . appeal.”<sup>120</sup>

The high number of ethnic minorities and Blacks sent to New York’s electric chair raises serious concerns that the death penalty was more frequently applied to those classes of New York society that were the least popular and the most discriminated against. The fact that the majority of overall persons executed in New York were classified as White should not be allowed to obscure this evidence of bias.

### *C. Race of Victims*

Many studies and constitutional challenges to the death penalty have focused on the role that the victim’s race plays in determining who becomes eligible for, and eventually is sentenced to death. Numerous studies show that the victim’s race provides a strong indicator of racial prejudice in the application of capital punishment, especially when the victim’s race is cross-referenced with the

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<sup>117</sup> See Appendix.

<sup>118</sup> 164 N.Y. 459, 58 N.E. 668 (1900).

<sup>119</sup> *Id.* at 469, 58 N.E. at 671.

<sup>120</sup> *Id.*

race of the defendant.<sup>121</sup> Indeed, there have been only four cases where a White defendant was executed for killing a Black person in all the executions nation-wide since 1976.<sup>122</sup>

New York's history similarly reveals that the victims were White in 90.3% of the cases resulting in executions in New York since 1890.<sup>123</sup> In contrast, only 6.4% of the victims were Black and 3.3% of the victims were from other racial groups.<sup>124</sup> Cross-referencing the race of victims with the race of defendants is even more revealing. While there have been ninety-six cases where a Black person was executed for killing a White person, (14% of all cases), there has been only a single case in New York where a White person was executed for killing a Black person (.1% of all cases).<sup>125</sup> The strong inference is that prosecutors did not seek the

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<sup>121</sup> See David C. Baldus et al., *Arbitrariness and Discrimination in the Administration of the Death Penalty*, 15 STETSON L. REV. 133 (1986). A study of Georgia executions from 1973 to 1979 reveals that defendants convicted of killing Whites were 4.3 times more likely to receive death as punishment; Blacks who killed Whites were sentenced to death at nearly 22 times the rate of Blacks who killed Blacks, and at more than seven times the rate of Whites who killed Blacks; and prosecutors sought the death penalty for 70% of Black defendants with White victims but for only 15% of Black defendants with Black victims, and only 19% of White defendants with Black victims. The "Baldus study" was cited in *McCleskey v. Kemp*, 481 U.S. 279, 327 (1987) (Brennan, J., dissenting).

The Supreme Court, however, found the Baldus study insufficient to support an equal protection or Eighth Amendment challenge to the application of Georgia's death penalty, stating that some racial disparity in the application of the death penalty was "inevitable." *Id.* at 312. The Court held that the statistics alone failed to demonstrate sufficient discriminatory intent necessary to succeed on an equal protection claim under federal constitutional standards. *Id.* at 297-99.

<sup>122</sup> See NATIONAL COALITION TO ABOLISH THE DEATH PENALTY, *United States Executions* 2-3 (1995).

<sup>123</sup> See *supra* Table 3.

<sup>124</sup> See *supra* Table 3 and *supra* note 108 (explaining the category of "other").

<sup>125</sup> See, e.g., *People v. Fornaro*, 198 N.Y. 553, 91 N.E. 542 (1910); see also Table 3. In a ruling consistent with the earlier hypothesis that ethnic background served as a basis for discriminatory application of the death penalty, the New York Court of Appeals specifically mentioned that this defendant was an Italian immigrant who, at one point following his arrest, claimed to speak no English. *Fornaro*, 198 N.Y. at 555, 91 N.E. at 543. Moreover, the Court found it pertinent to state in its opinion that Fornaro lived in "illicit relations" with the

death penalty for White defendants where their victims were Black. Alternatively, or perhaps additionally, jurors were willing to send White people to the electric chair, but only when their victims were White.

These figures, however, require additional information in order to be considered conclusive. For example, it would be helpful to know the racial breakdown for all homicide victims in this time period. If the racial makeup of all homicide victims were proportionately the same as those in successful capital prosecutions, then the disparities evident in the above figures would be much less significant. Unfortunately, the figures and studies needed to support this proposition are simply unavailable.<sup>126</sup> Nevertheless, the discrepancies shown here are stark and suggest that New York enforced a system of social stratification through its application of the death penalty.<sup>127</sup>

#### *D. Age and Gender of Defendants*

Of its 695 executions, New York electrocuted thirty-two defendants who were less than twenty-years-old at the time of their executions, three of whom were only seventeen-years-old.<sup>128</sup> The large number of young people executed shows that New York juries were not hesitant to convict and execute teenage defendants. In addition, three individuals were over the age of sixty at the time of their execution, revealing that even relatively older defendants were not immune from the harshest punishment.<sup>129</sup>

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victim, "a colored woman." *Id.* at 553, 91 N.E. at 542.

<sup>126</sup> The authors checked with, among other institutions, the Federal Bureau of Investigation, the National Bureau of Statistics, the Division of Criminal Justice Services and local law enforcement authorities, all of which stated that comprehensive statistics for the earlier part of this century are not available.

<sup>127</sup> The recently enacted first degree murder statute contains some provisions that might be used to address such disparities. *See infra* note 147 and accompanying text.

<sup>128</sup> BOWERS, *supra* note 35, at 458 app. A.

<sup>129</sup> BOWERS, *supra* note 35, at 458 app. A.

In addition, over the seventy-five year span discussed here, only eight of those electrocuted in New York were women.<sup>130</sup> This low figure is consistent with the historically smaller percentage of women charged with committing violent crimes.<sup>131</sup> For example, from 1930 through 1972, only thirty-two women were executed in the United States.<sup>132</sup> Moreover, one of the women executed in New York, Ethel Rosenberg, had been convicted of espionage, a nonviolent offense.<sup>133</sup>

### *E. Breakdown By County*

Table 5, which lists the total number of executions by county, reveals that the most populous area of the state, New York City, had the highest overall rate of executions among the New York counties. The five counties of New York City<sup>134</sup> accounted for 59% of the total executions, while Westchester, Nassau and Suffolk Counties comprised 10%, and the remaining counties totaled approximately 31%.<sup>135</sup> Erie County, with a total of forty-five capital sentences, is the lone standout among other counties, accounting for a surprising 6.47% of all executions and 21% of all executions outside the greater New York City area.<sup>136</sup>

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<sup>130</sup> See Appendix. The first woman put to death in the electric chair was Martha Place in 1899. For a description of her electrocution, see FRIEDMAN, *supra* note 14, at 171.

<sup>131</sup> See Elizabeth Rapaport, *The Death Penalty and Gender Discrimination*, 25 LAW & SOC'Y REV. 367 n.2 (1991) (arguing that the small number of women executed is commensurate with the infrequency of capital crimes committed by women); see also Streib, *supra* note 10 (presenting an extensive historical survey of women sentenced to death). Indeed, since 1976, only one woman has been executed nationally. DEATH PENALTY INFORMATION CENTER, FACTS ABOUT THE DEATH PENALTY 3 (1994) (noting that Velma Barfield was executed in North Carolina on Nov. 2, 1984).

<sup>132</sup> DEATH PENALTY IN AMERICA, *supra* note 15, at 62 tbl. 2-3-3.

<sup>133</sup> United States v. Rosenberg, 195 F.2d 583 (2d Cir.), *cert. denied*, 344 U.S. 838 (1952).

<sup>134</sup> The five counties of New York City are New York, Kings, Bronx, Queens and Richmond.

<sup>135</sup> See *infra* Table 5; see also Appendix.

<sup>136</sup> See *infra* Table 5; see also Appendix. The "greater New York City area" refers to the five counties of New York City as well as Nassau, Suffolk and

**TABLE 5***Executions by County and Decade*

	1890	1900	1910	1920	1930	1940	1950	1960	Total
Erie	3	3	7	15	11	1	3	2	45
Nassau/Suffolk	0	1	3	3	15	5	3	1	31
New York City	26	29	53	72	94	95	33	7	408
Westchester	2	3	16	5	7	4	4	0	41
Other	20	30	42	30	26	9	12	0	169
Total	51	66	121	125	153	114	55	10	695

Source: Appendix.

While it is not clear why Erie County in particular had so many successful capital cases, many states develop local "death belts." Just as certain states are considered to constitute a death belt because they are especially active in their use of their death penalty,<sup>137</sup> certain counties within states are often more active than others. Of the 254 counties in Texas, for example, one county presently is responsible for about 40% of that state's executions since 1976.<sup>138</sup> Although such disparities often reflect higher crime rates or denser populations, they can also reflect different local attitudes toward crime, local politics and, perhaps most importantly, the different objectives of local prosecutors.<sup>139</sup>

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Westchester counties.

<sup>137</sup> As of February 23, 1995, nine southern states had accounted for 226 of the 266 executions since 1976. These states include Arkansas, Alabama, Florida, Georgia, Louisiana, Missouri, North Carolina, Texas and Virginia. Due to this group of southern states' propensity for capital punishment and their relative proximity, these states comprise part of the death belt. Lewin, *supra* note 5, at A1.

<sup>138</sup> Moreover, out of Texas' 254 counties, only 42 have put people on death row, and half of those have only one death row inmate. Lewin, *supra* note 5, at A1.

<sup>139</sup> Rosenberg, *supra* note 4, at 21.

One current example of the power of individual prosecutors is seen in the contrast between two major Pennsylvania cities, Philadelphia and Pittsburgh, where the respective district attorneys hold markedly different views on when the death penalty should be sought. The Philadelphia District Attorney seeks the death penalty wherever possible, while the Pittsburgh District Attorney weighs the individual circumstances of the defendant and the crime before deciding whether capital murder is an appropriate charge.<sup>140</sup> Over time, the resulting differences in the number of defendants that these two cities have placed on death row makes clear that local politics and prosecutorial philosophies can largely determine how a state applies the death penalty.<sup>141</sup>

### III. CONCLUSION

A century ago, when introducing substantial new death penalty legislation, the New York legislature deemed hanging a remnant of "the dark ages" and embraced the electric chair as a progressive means of imposing death.<sup>142</sup> Now, for the 1995 revival of capital punishment, the New York Legislature has again turned to science to allay criticisms, this time of the electric chair, by adopting the latest *humane* means of execution, lethal injection.<sup>143</sup> Because the 1995 statute will operate in a very different legal and social setting than had previous laws, history is an imperfect guide as to what impact this capital law will have in New York.

Nevertheless, the past is instructive as to what may lie ahead for New York. History reveals that New York had its highest number of executions when popular support for capital punishment was at

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<sup>140</sup> Rosenberg, *supra* note 4, at 21. Philadelphia prosecutors seek the death penalty in approximately 85% of that city's murders, while Pittsburgh charged defendants with capital murder in only eight cases last year. Rosenberg, *supra* note 4, at 25, 42.

<sup>141</sup> Philadelphia County's death row population of 105 is the third highest county population in the country behind Harris County, Texas and Los Angeles County, California. Rosenberg, *supra* note 4, at 22.

<sup>142</sup> FRIEDMAN, *supra* note 14, at 171.

<sup>143</sup> Death Penalty Act § 32, 1995 N.Y. LAWS at 20-24 (repealing N.Y. CORRECT. LAW Art. 22-B (McKinney 1987 & Supp. 1995) and amending the Correction Law by adding a new Article 22-B).

its peak and New York had adopted its most expansive statute.<sup>144</sup> New York's recently enacted law, which includes twelve defined categories of capital murder, marks the return to a broad format.<sup>145</sup> In addition, recent elections, as well as national polls, indicate that present levels of public approval for executions are high.<sup>146</sup> The broad statute, coupled with the high level of popular support, strongly indicates that New York will use the new statute frequently.

New York's past implementation of the death penalty also shows disturbing racial and ethnic disparities, both in terms of the defendants and the victims. The new statute acknowledges this history to some extent in providing for an automatic proportionality review of all death sentences by the court of appeals "focusing on race of defendant and race of victim."<sup>147</sup> This provision, by failing to state what the review will entail, appears superficial, especially in light of the fact that present death row inmates in other northeastern states are disproportionately members of racial and ethnic minorities.<sup>148</sup> Greater efforts must be made if New York expects to avoid perpetuating the racially discriminatory application of the death penalty.

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<sup>144</sup> See *supra* notes 36-39 and accompanying text.

<sup>145</sup> Death Penalty Act § 7, 1995 N.Y. LAWS at 2-3 (amending N.Y. PENAL LAW § 125.27(1) (McKinney 1987)).

<sup>146</sup> See Rosenberg, *supra* note 4, at 23 (stating that nationwide the current rate of support for the death penalty is 75 to 80%).

<sup>147</sup> Death Penalty Act § 27, 1995 N.Y. LAWS at 13-14 (amending N.Y. CRIM. PROC. LAW § 470.30 (McKinney 1994)).

<sup>148</sup> Current death row populations of northern states with similar proportionality reviews still show striking racial discrepancies. See RANDALL COYNE & LYN ENTZEROTH, CAPITAL PUNISHMENT AND THE JUDICIAL PROCESS 87-90 (1994). The racial breakdown of death row populations of northern states in 1994 was as follows:

- Connecticut: 2 Black and 3 White defendants;
- Illinois: 98 Black, 52 White and 8 Latino defendants;
- Maryland: 11 Black and 3 White defendants;
- New Jersey: 5 Black, 3 White and 1 Latino defendants;
- Pennsylvania: 101 Black, 60 White, 7 Latino and 2 Asian defendants.

*Id.*; see also MD. ANN. CODE art. 27 § 414 (1992); CONN. GEN. STAT. ANN. § 53a-46b (West 1994); 42 PA. CONS. STAT. ANN. § 9711 (1982 & Supp. 1995) (statutes providing for similar proportionality reviews).

Finally, just as the overwhelming number of capital prosecutions occurred in the greater New York City area between 1890 and 1963, present homicide figures place the vast majority of the state's murders in New York City.<sup>149</sup> While there is no reason to believe that Erie County will again stand out as a local death belt,<sup>150</sup> the potential for disparate treatment based on prosecutorial discretion just among the five New York counties already is clear; while Staten Island's district attorney declared that he will seek capital convictions aggressively, the Bronx district attorney stated that he will not pursue the death penalty "under any circumstances."<sup>151</sup> Other district attorneys throughout the state have announced similarly diverse views, suggesting that New York will again develop local death belts with the corresponding arbitrary results.<sup>152</sup>

Thus, even if historical abuses do not lead one to conclude that capital punishment can never be administered fairly and that states should no longer "tinker with the machinery of death,"<sup>153</sup> at the very least these historical trends and figures should prompt a searching scrutiny of the new law and its application to ensure that

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<sup>149</sup> Daniel Wise, *Prosecutors Want Death Penalty: Qualms Voiced About Costs, Time, Training of Lawyers*, N.Y.L.J., Mar. 3, 1995, at 1 (indicating that last year six counties, including Kings, Bronx, New York and Queens, obtained 72% of murder convictions statewide).

<sup>150</sup> See *supra* note 136 and accompanying text.

<sup>151</sup> Nossiter, *supra* note 1, at B5; Rosenberg, *supra* note 4, at 24.

<sup>152</sup> Some prosecutors have indicated their intent to seek the death penalty in a significant portion of cases. William Fitzpatrick, district attorney of Syracuse, for example, has stated that he will seek the death penalty in about one-third of all murder cases. Rosenberg, *supra* note 4, at 23. Other New York prosecutors have publicly questioned the cost-effectiveness of capital cases and the feasibility of funding many capital prosecutions. See, e.g., Nossiter, *supra* note 1, at B5. While the question of cost may seem somewhat inappropriate, because the death penalty is rarely sought against defendants who can privately retain counsel, the state will have to cover both parties' costs, and the total figure could become quite high. See, e.g., DEATH PENALTY INFORMATION CENTER, MILLIONS MISSPENT (1994); PUBLIC DEFENSE BACKUP CENTER, CAPITAL LOSSES: THE PRICE OF THE DEATH PENALTY FOR NEW YORK STATE (1982).

<sup>153</sup> *Callins v. Collins*, 114 S. Ct. 1127, 1130 (1994) (Blackmun, J., dissenting from denial of *certiorari*).



this most final punishment is truly imposed in a manner acceptable to contemporary society.

## APPENDIX

The following list includes the 695 executions that took place in New York between 1890 and 1963. The Appendix covers all executions carried out in New York under state authority pursuant to the Act of 1888 through 1963, the year of the last execution in this state. The list is based on new research provided to Brooklyn Law School by M. Watt Espy. Each individual is listed by name, followed by his or her race, the race of the victim, the county in which he or she was convicted and the date of the execution.

*Key:* B = Black; C = Chinese; H = Hispanic; F = Fillipino; J = Japanese; NA = not available; W = White. Female defendants are in ***bold/italics***. Two letters listed in the "V" column indicates that there were two victims.

	DEFENDANT	D	V	COUNTY	DATE
1	William Kemmler	W	W	Erie	8/6/1890
2	Harris A. Smiler	W	W	New York	7/7/1891
3	James Slocum	W	W	New York	7/7/1891
4	Joseph Wood	B	W	New York	7/7/1891
5	Subihick Jugido	J	J	New York	7/7/1891
6	Martin D. Lopyy	W	W	New York	12/7/1891
7	Charles McElvaine	W	W	Kings	2/8/1892
8	Jeremiah Cotto	W	W	Kings	3/28/1892
9	Joseph L. Tice	W	W	Monroe	5/18/1892
10	Joseph Wood	W	W	Warren	8/2/1892
11	Fred McGuire	W	W	Orange	12/19/1892
12	Cornell Lash	W	W	Schenectady	1/16/1893
13	James L. Hamilton	B	B	Queens	4/3/1893

14	Carlyle W. Harris	W	W	New York	5/8/1893
15	Sapione Martello	W	W	Saratoga	6/6/1893
16	John L. Osmond	W	W	New York	6/12/1893
17	John Fitzthum	W	W	Erie	6/26/1893
18	William G. Taylor	B	W	Cayuga	7/27/1893
19	Martin Foy, Jr.	W	W	Saratoga	10/23/1893
20	John Johnson	B	W	Cayuga	11/14/1893
21	John Delfino	W	W	Kings	12/4/1893
22	Matthew Johnson	B	W	New York	2/26/1894
23	Lucius R. Wilson	W	W	Onondaga	5/14/1894
24	David Hampton	B	W	New York	1/29/1895
25	William Lake	W	W	Orleans	4/4/1895
26	Robert W. Buchanan	W	W	New York	7/1/1895
27	Richard Leach	W	W	New York	8/5/1895
28	Charles H. Davis	W	W	Albany	10/29/1895
29	George H. Smith	W	W	Albany	10/29/1895
30	Bartholomew Shea	W	W	Rensselaer	2/11/1896
31	Joseph Zlamel	W	W	Fulton	4/4/1896
32	Louis P. Herman	W	W	New York	4/23/1896
33	Charles Pustolka	W	W	New York	4/23/1896
34	Carl Fiegenbaum	W	W	Queens	4/24/1896
35	John Hoch	W	W	Lewis	1/20/1897
36	Arthur Mayhew	B	W	Queens	3/12/1897
37	Howard H. Scott	B	B	New York	6/14/1897

38	Giuseppe Constantino	W	W	Oneida	6/22/1897
39	Robert G. Powley	W	W	Niagara	6/29/1897
40	John Henry Barker	B	B	Westchester	7/6/1897
41	Frank Conroy	W	W	St. Lawrence	8/10/1897
42	Charles Burgess	W	W	Cayuga	12/7/1897
43	Hadley A. Sutherland	B	B	Kings	1/10/1898
44	Martin Thorn	W	W	Queens	8/1/1898
45	Beiler Decker	B	W	Richmond	1/9/1899
46	<i>Martha Place</i>	W	W	Kings	3/20/1899
47	Adrian Braun	W	W	Westchester	5/29/1899
48	Louis Pullerson	B	W	New York	7/31/1899
49	Michael McDonald	W	W	New York	7/31/1899
50	Oscar E. Rice	W	W	Chautauqua	8/2/1899
51	John Kennedy	B	B	Erie	8/2/1899
52	Antonio Ferraro	W	W	Kings	2/26/1900
53	Fritz Meyer	W	W	New York	5/21/1900
54	Joseph Mullen	W	W	New York	7/23/1900
55	William Neufeld	W	W	New York	1/14/1901
56	Lorenzo Priori	W	W	New York	2/6/1901
57	Frank Wennerholm	W	W	Chautauqua	7/16/1901
58	Benjamin Pugh	B	W	Kings	8/5/1901
59	Joseph Zachello	W	W	Richmond	8/29/1901
60	Leon Czołgosz	W	W	Erie	10/29/1901
61	Fred Krist	W	W	Tioga	11/20/1901

62	George D. Middleton	W	W	Warren	7/29/1902
63	Aaron Hall	W	W	New York	8/4/1902
64	John Truck	W	W	Cortland	11/18/1902
65	James Sullivan	W	W	Schoharie	3/24/1903
66	Antonio Triola	W	W	New York	5/25/1903
67	Arthur Flanigan	B	W	New York	6/8/1903
68	William O'Connor	W	W	Schoharie	7/7/1903
69	Antonio Turckowski	W	W	Kings	8/3/1903
70	Patrick F. Conklin	W	W	New York	9/8/1903
71	Clarence Egnor	W	W	Cayuga	9/14/1903
72	Frederick Van Wormer	W	W	Columbia	10/1/1903
73	Willis Van Wormer	W	W	Columbia	10/1/1903
74	Burton Van Wormer	W	W	Columbia	10/1/1903
75	Carmine Gaimari	W	W	New York	11/23/1903
76	William H. Ennis	W	W	Kings	12/14/1903
77	Frank White	B	W	Oswego	12/29/1903
78	Thomas Tobin	W	W	New York	3/14/1904
79	Allen Mooney	W	W	Franklin	5/3/1904
80	Albert Koeping	W	W	Orange	6/13/1904
81	Oscar Borgstrom	W	W	Westchester	6/13/1904
82	Frank H. Burness	W	W	Kings	6/27/1904
83	Antonio Giorgio	W	W	Allegany	8/30/1904
84	Giuseppe Verseccia	W	W	Allegany	9/5/1904
85	Nelson Bogganio	W	W	Erie	12/13/1904

86	William Spencer	B	W	New York	1/9/1905
87	Frank Rimieri	W	W	Kings	2/20/1905
88	Adolph Koenig	W	W	New York	2/20/1905
89	Martin Ebelt	W	W	Westchester	4/10/1905
90	James Breen	W	W	New York	7/17/1905
91	Charles Jackson	B	W	New York	7/17/1905
92	Henry W. Manzer	W	W	Oswego	9/12/1905
93	George Henry Granger	W	W	Dutchess	2/25/1907
94	Frank Furlong	W	W	New York	3/4/1907
95	Edward Harold Sexton	W	W	Ontario	4/16/1907
96	Carlo Giardi	W	W	Tompkins	5/21/1907
97	John J. Johnson	W	W	Westchester	6/24/1907
98	William Nelson	B	B	New York	7/29/1907
99	Charles Bonier	W	W	Erie	7/31/1907
100	John Wenzel	W	W	Kings	11/18/1907
101	Antonio Strollo	W	W	New York	3/9/1908
102	Chester H. Gillette	W	W	Herkimer	3/30/1908
103	Charles H. Rogers	W	W	Orange	7/20/1908
104	Angelo Laudiero	W	W	New York	7/20/1908
105	Andrea DelVermo	W	W	Oneida	11/16/1908
106	William S. Brasch	W	W	Monroe	11/28/1908
107	Salvatore Governale	W	W	New York	2/1/1909
108	Leslie Combs	W	W	St. Lawrence	2/16/1909
109	William Jones	B	B	Nassau	3/8/1909

110	Salvatore Randazzio	W	W	Cattaraugus	3/16/1909
111	<i>Mary Farmer</i>	W	W	Jefferson	3/29/1909
112	Bernard Carlin	W	W	Kings	4/12/1909
113	Pacy Hill	W	W	Cattaraugus	4/26/1909
114	William Scott	W	W	Chenango	6/14/1909
115	Giuseppe Sanducci	W	W	Allegany	7/6/1909
116	Teodore Rizzio	W	W	Oneida	11/22/1909
117	Bedros Hampartjoomian	W	W	New York	12/6/1909
118	William Morse	B	W	Kings	1/3/1910
119	John Barobuto	W	W	Orange	1/3/1910
120	Frank Jackson	B	B	Washington	1/5/1910
121	Carlo Giro	W	W	Kings	2/23/1910
122	Charles Bowser	B	B	New York	2/28/1910
123	John Smyth	W	W	Kings	3/14/1910
124	Earl D. Hill	W	W	Chenango	4/18/1910
125	Gilbert Coleman	B	B	New York	5/9/1910
126	Antonio Fornaro	W	B	Rensselaer	6/21/1910
127	William Gilbert	B	B	Cattaraugus	7/7/1910
128	Carl Loose	W	W	New York	7/25/1910
129	Giuseppe Gambaro	W	W	New York	7/25/1910
130	Samuel D. Austin	B	B	Westchester	1/3/1911
131	Dominick Ferrera	W	W	Albany	1/6/1911
132	Vincent Leonardo	W	W	Albany	1/6/1911
133	Samuel Ford	B	B	Ulster	2/1/1911

134	Joseph Nesco	W	W	Seneca	5/3/1911
135	Thomas Barnes	W	W	Kings	6/12/1911
136	Frederick Gebhardt	W	W	Suffolk	6/12/1911
137	Joseph Nacco	W	W	Niagara	6/26/1911
138	Charles L. Green	W	W	Albany	7/13/1911
139	Giuseppe Serimarco	W	W	Westchester	7/17/1911
140	Robert Francis Wood	W	W	New York	8/17/1911
141	Burt L. Brown	B	B	Westchester	11/20/1911
142	Pietro Falletta	W	W	Westchester	11/20/1911
143	Frank Schermerhorn	W	W	Dutchess	11/20/1911
144	Phillip Mangano	W	W	New York	1/8/1912
145	Albert Wolter	W	W	New York	1/29/1912
146	Charles Swenton	B	B	New York	2/5/1912
147	Domenico DiPasquale	W	W	Monroe	3/18/1912
148	Salvatore Caruso	W	B/W	Greene	3/20/1912
149	Salvatore Condido	W	W	Rockland	5/6/1912
150	Nicolo Consuli	W	W	Rensselaer	5/28/1912
151	Ralph Freeman	W	W	Monroe	6/18/1912
152	Jacob Kuhn	W	W	Monore	6/18/1912
153	Giuseppe Cerelli	W	W	Westchester	7/8/1912
154	George Williams	B	W	Westchester	7/8/1912
155	Santo Zanza	W	W	Westchester	7/8/1912
156	Lorenzo Cali	W	W	Westchester	7/12/1912
157	Vincenzo Cona	W	W	Westchester	7/12/1912



158	Filipo DeMarco	W	W	Westchester	7/12/1912
159	Salvatore DeMarco	W	W	Westchester	7/12/1912
160	Angelo Giusto	W	W	Westchester	7/12/1912
161	John W. Collins	B	W	New York	7/12/1912
162	Joseph Ferrone	W	W	New York	8/12/1912
163	John Maruszewski	W	W	Erie	8/14/1912
164	James Williams	B	W	Livingston	9/16/1912
165	Matteo Dell'Omo	W	W	Kings	12/16/1912
166	Joseph Garfalo	W	W	Suffolk	2/10/1913
167	George Bishop	B	W	Kings	2/10/1913
168	Donato Cardillo	W	W	Westchester	2/10/1913
169	Frederick A. Poulin	W	W	Rensselaer	2/12/1913
170	William Twimann	B	B/W	Monroe	3/31/1913
171	William Linglui	W	W	New York	5/3/1913
172	John Mulraney	W	W	New York	5/19/1913
173	Raffaele Ciavarella	W	W	Oswego	5/21/1913
174	Gergorio Patini	W	W	Westchester	6/2/1913
175	Michael Goslinski	W	W	Erie	6/4/1913
176	Andrew Manco	W	W	Orange	7/2/1913
177	William Antonio Grace	W	W	Orange	8/4/1913
178	Nelson Sharpe	W	W	Monroe	12/10/1913
179	Francis W. Mulchfeldt	W	W	New York	1/19/1914
180	Frank Cirofici	W	W	New York	4/13/1914
181	Harry Horowitz	W	W	New York	4/13/1914

182	Louis Rosenberg	W	W	New York	4/13/1914
183	Jacob Seidenschmer	W	W	New York	4/13/1914
184	Pietro Rebacci	W	W	Westchester	6/22/1914
185	George Coyer	W	W	Cattaraugus	8/31/1914
186	Giuseppe DeGioia	W	W	Erie	8/31/1914
187	William Bressen	W	W	Kings	9/2/1914
188	Joseph J. McKenna	W	W	New York	9/2/1914
189	Michael Sarzano	W	W	Erie	12/9/1914
190	Eng Hing	C	C	New York	2/5/1915
191	Yee Dock	C	C	New York	2/5/1915
192	Robert Kane	W	W	Kings	2/26/1915
193	Vincenzo Camponelli	W	W	New York	2/26/1915
194	Oscar Vogt	W	W	New York	2/26/1915
195	Giuseppe Gino	W	W	Erie	3/22/1915
196	Vincenzo Buoninsegno	W	W	Oneida	5/31/1915
197	Joseph Ferri	W	W	Nassau	6/30/1915
198	David Dunn	W	W	Steuben	7/2/1915
199	Charles Becker	W	W	New York	7/30/1915
200	Samuel Haynes	B	W	Putnam	7/30/1915
201	Karol Draniewicz	W	W	New York	8/27/1915
202	William Perry	B	B	New York	9/3/1915
203	Lewis M. Roach	W	W	Montgomery	9/3/1915
204	Antonio Salemon	W	W	Monroe	9/3/1915
205	Thomas Tarpey	W	W	Kings	9/3/1915

206	Pasquale Vendetti	W	W	Kings	9/3/1915
207	Ludwig Marquardt	W	W	Ulster	12/17/1915
208	Worthy Tolley	W	W	Greene	12/17/1915
209	Antonio Ponton	H	W	Schenectady	1/7/1916
210	Giuseppe Marendiu	W	W	Kings	2/4/1916
211	Hans Schmidt	W	W	New York	2/18/1916
212	Walter Watson	W	W	Kings	3/3/1916
213	Charles Sprague, II	W	W	Yates	5/1/1916
214	Roy Champlin	W	W	Allegany	6/2/1916
215	Giovanni Supe	W	W	Westchester	6/2/1916
216	Oresto Shilitani	W	W	New York	6/30/1916
217	Allen Bradford	B	B	New York	8/4/1916
218	Joseph Hanel	W	W	Kings	9/1/1916
219	Jan Trybus	W	W	Genesee	9/1/1916
220	Thomas Bambrick	W	W	New York	10/2/1916
221	Charles Kumrow	W	W	Erie	12/19/1916
222	Stanley J. Millstein	W	W	Oneida	12/19/1916
223	Petrius Von den Corput	W	W	New York	4/12/1917
224	Antonio Impolluzzo	W	W	New York	5/17/1917
225	Arthur W. Waite	W	W	New York	5/24/1917
226	Arthur Waldenen	W	W	New York	7/12/1917
227	Joseph A. Mulholland	W	W	New York	8/30/1917
228	Alex Shuster	W	W	New York	8/30/1917
229	John Kushmieruk	W	W	Essex	5/23/1918

230	Stephen Lischuk	W	W	Essex	6/13/1918
231	Alvah Briggs	W	W	St. Lawrence	6/13/1918
232	Hyman Otransky	W	W	New York	6/13/1918
233	Johann Berg	W	W	Kings	8/30/1918
234	Giuseppe Roberto	W	W	Erie	8/30/1918
235	Carl K. Van Poucke	W	W	Bronx	10/3/1918
236	Jacob Cohen	W	W	Kings	12/19/1918
237	Alton Cleveland	W	W	Kings	1/9/1919
238	Giovanni Ferraro	W	W	Cattaraugus	3/21/1919
239	Vincenzo Esposito	W	W	Schenectady	1/8/1920
240	Gordon F. Hamby	W	W	Kings	1/29/1920
241	Chester Cantine	W	W	Dutchess	5/13/1920
242	Richard Harrison	W	W	New York	5/13/1920
243	Leo Jankowsky	W	W	Clinton	5/28/1920
244	Walter Levandowski	W	W	Clinton	5/28/1920
245	James Montague Byrd	B	W	Ulster	7/22/1920
246	Elmer Hyatt	W	W	Monroe	7/29/1920
247	John P. Egan	W	W	Bronx	8/27/1920
248	Frank Kelley	B	W	Kings	8/27/1920
249	Walter Bojanowski	W	W	Erie	9/9/1920
250	Howard Baker	W	W	Wayne	12/9/1920
251	James P. Cassidy	W	W	Bronx	12/9/1920
252	Charles McLaughlin	W	W	Bronx	12/9/1920
253	Joseph Milano	W	W	Bronx	12/9/1920

254	Joseph Usefof	W	W	Bronx	12/9/1920
255	Henry Garcia	H	H	Cattaraugus	1/27/1921
256	Augustin Sanchez	H	H	Cattaraugus	1/27/1921
257	Jesse Walker	W	W	Kings	2/10/1921
258	Guy Nichols	W	W	Kings	2/10/1921
259	James Odell	W	W	Monroe	4/29/1921
260	Michael Casalino	W	W	Queens	5/5/1921
261	John Bulge	B	W	Kings	7/21/1921
262	Angelo Giordano	W	W	New York	9/1/1921
263	Harry B. Van Reed	W	W	New York	9/1/1921
264	Edward J. McNally	W	W	Richmond	9/15/1921
265	George Brazee	W	W	Otsego	12/15/1921
266	William J. Marweg	W	W	Erie	1/12/1922
267	Edward Persons	W	W	Chautauqua	1/12/1922
268	Raymond F. Mulford	W	W	Erie	1/12/1922
269	Harry Givner	W	W	Westchester	2/2/1922
270	Floyd E. Slover	W	W	Erie	2/2/1922
271	George F. McCormick	W	W	New York	3/2/1922
272	Lawrence Kubal	W	W	Nassau	3/23/1922
273	Lawrence Torrence	B	W	Erie	4/20/1922
274	Luigi Ebanista	W	W	Rockland	6/8/1922
275	Albert Librero	W	W	Rockland	6/8/1922
276	Julius Rosenwasser	W	W	New York	6/8/1922
277	William Bell	B	W	Queens	6/15/1922

278	Michael Rossi	W	W	Westchester	6/29/1922
279	Saito Taizo	J	J	New York	7/20/1922
280	Peter Nunziato	W	W	Queens	7/20/1922
281	Herbert W. Smith	W	W	Chenango	8/31/1922
282	Luther Boddy	B	W	New York	8/31/1922
283	Henry Brown	B	W	Bronx	1/25/1923
284	Arlie Westling	W	W	Bronx	2/15/1923
285	Joseph Zampelli	W	W	Queens	2/15/1923
286	Anthony Rabasvotch	W	W	Kings	3/1/1923
287	William J. Evans	W	W	Richmond	4/26/1923
288	Michael Fradiano	W	W	Bronx	4/26/1923
289	Joseph Alfano	W	W	Queens	4/26/1923
290	Thomas Kindlon	W	W	Albany	6/7/1923
291	Thomas Lester	W	W	Albany	6/7/1923
292	Key Pendleton Smith	NA	W	Kings	6/22/1923
293	Robert J. Blackstone	B	W	Bronx	7/12/1923
294	Raffaele Amendola	W	W	Oneida	8/30/1923
295	Emilio Semione	W	W	Erie	12/6/1923
296	Abraham Becker	W	W	Bronx	12/14/1923
297	George W. Hacker, Jr.	W	W	Broome	12/14/1923
298	Harry Santanello	W	W	Broome	12/14/1923
299	Antonio Viandante	W	W	Onondaga	4/10/1924
300	Reuben Norkin	W	W	Bronx	4/17/1924
301	Alberigio Mastrota	W	W	Queens	6/12/1924

302	Eulogia Lozado	F	W	New York	7/24/1924
303	John Ernieleta	W	C	Suffolk	1/8/1925
304	John Rys	W	C	Suffolk	1/8/1925
305	Ambrose Geary	W	W	Erie	1/15/1925
306	Harry F. Malcolm	W	W	Erie	1/15/1925
307	Edward C. Smith	W	W	Erie	1/15/1925
308	Nicholazs Ferranti	W	W	Broome	1/22/1925
309	Florencio Lerma	H	W	Erie	1/22/1925
310	John T. Leonard	W	W	Bronx	1/22/1925
311	Frank H. Minnick	W	W	Erie	3/12/1925
312	Patrick J. Murphy	W	W	Erie	3/12/1925
313	Joseph Diamond	W	W	Kings	4/30/1925
314	Morris Diamond	W	W	Kings	4/30/1925
315	John Farina	W	W	Kings	4/30/1925
316	John Durkin	W	W	Bronx	8/27/1925
317	Julius William Miller	B	B	New York	9/17/1925
318	Emil Klatt	W	W	Westchester	1/29/1926
319	Luigi Rapito	W	W	Cayuga	1/29/1926
320	Ernest T. Mimms	B	W	Bronx	2/4/1926
321	Matthew Wasser	W	W	Niagara	2/4/1926
322	Frank A. Daley	W	W	Westchester	6/24/1926
323	Sam Wing	C	C	Kings	7/15/1926
324	David DeMaio	W	W	Westchester	8/19/1926
325	William W. Hoyer	B	B	New York	8/19/1926

326	Cosimo Brescia	W	W	Kings	8/26/1926
327	John Garguila	W	W	New York	8/26/1926
328	John J. Brennan	W	W	Kings	12/2/1926
329	Casimir Barszyouk	W	W	Kings	12/9/1926
330	William Barszyouk	W	W	Kings	12/9/1926
331	John Maxwell	W	W	Kings	12/9/1926
332	Charles Goldson	B	W	New York	12/9/1926
333	Edgar Humes	B	W	New York	12/9/1926
334	George Williams	B	W	New York	12/9/1926
335	Benjamin Bradley	B	W	New York	1/13/1927
336	Michael Kosmowski	W	W	Erie	1/20/1927
337	Paul E. Hilton	W	W	Queens	2/17/1927
338	Tony Paretti	W	W	Kings	2/17/1927
339	Giuseppe Friia	W	W	Monroe	3/17/1927
340	Giuseppe Provenzano	W	W	Monroe	3/17/1927
341	William Wagner	W	W	Kings	7/15/1927
342	Peter Heslin	W	W	New York	7/21/1927
343	Charles Albrecht	W	W	New York	7/21/1927
344	George A. Ricci	W	W	Kings	12/16/1927
345	Peter A. Seiler	W	W	New York	12/16/1927
346	Charles J. Doran	W	W	Albany	1/5/1928
347	Louis Mason	B	W	Erie	1/5/1928
348	H. Judd Gray	W	W	Queens	1/12/1928
349	<i>Ruth Snyder</i>	W	W	Queens	1/12/1928



350	Philip Ecker	W	W	New York	3/1/1928
351	Frank D. Baldwin	B	W	Seneca	4/5/1928
352	Wilmont L. Wagner	W	W	Erie	6/21/1928
353	Joseph Lefkowitz	W	W	Kings	7/19/1928
354	Ludwig H. Lee	W	W	Kings	8/2/1928
355	George Appel	W	W	Queens	8/9/1928
356	Daniel J. Graham	W	W	New York	8/9/1928
357	Alexander Kalinowski	W	W	Cayuga	8/9/1928
358	Martin L. Miller	B	W	Kings	8/30/1928
359	Thomas Moran	W	W	Kings	12/14/1928
360	Harry Dreitzer	W	W	Kings	1/24/1929
361	Israel Fisher	W	W	Kings	1/24/1929
362	Isadore Helfant	W	W	Kings	1/24/1929
363	John Fabri	W	W	Onondaga	8/29/1929
364	Arthur Brown	W	W	Erie	1/2/1930
365	Frank Kowalski	W	W	Erie	1/2/1930
366	John E. Schlager	W	W	Erie	1/9/1930
367	Frank Plaia	W	W	Nassau	1/30/1930
368	Michael Scalfonia	W	W	Nassau	1/30/1930
369	Stephen Ziolkowski	W	W	Erie	5/29/1930
370	Alexander Bogdanoff	W	W	Erie	7/17/1930
371	Stephen Grzechowiak	W	W	Erie	7/17/1930
372	Max Rybarczyk	W	W	Erie	7/17/1930
373	Willaim Force	W	W	Cayuga	8/28/1930

374	James Thomas	W	W	Cayuga	8/28/1930
375	Claude Udwin	W	W	Cayuga	8/28/1930
376	James Bolger	W	W	Nassau	12/12/1930
377	James R. Butler	W	W	Nassau	12/12/1930
378	Italo Ferdinandi	W	W	Nassau	12/12/1930
379	Anthony Velluchio	W	W	Montgomery	2/26/1931
380	Anthony Luciano	W	W	Montgomery	2/26/1931
381	Fred Innes	B	W	Bronx	6/25/1931
382	Haywood Turner	B	W	Bronx	6/25/1931
383	Fred Carmosino	W	W	Bronx	7/2/1931
384	Nicholas Leonelli	W	W	Bronx	7/2/1931
385	Ferdinand Mangiamiele	W	W	Bronx	7/2/1931
386	Herbert Johnson	B	W	Schoharie	7/23/1931
387	Andrew Metelski	W	W	Erie	7/23/1931
388	Harry Lipschitz	W	W	Westchester	8/27/1931
389	Maurice Seaton	B	W	New York	9/4/1931
390	Rudolph Durringer	W	W	Bronx	12/10/1931
391	Joseph Caricari	W	W	Westchester	1/7/1932
392	Alfonso Corrato	W	W	Westchester	1/7/1932
393	Joseph Senna	W	W	Bronx	1/14/1932
394	Francis Crowley	W	W	Nassau	1/21/1932
395	Gavino Demiar	F	W	Kings	1/28/1932
396	Peter Sardini	W	W	Kings	3/31/1932
397	Walter Borowsky	W	W	Queens	3/31/1932

398	Michael Rodrick	W	W	Queens	3/31/1932
399	Dominick Scifo	W	W	Queens	3/31/1932
400	John Dawson	B	B	New York	6/9/1932
401	Frank Giordano	W	W	Bronx	7/2/1932
402	Dominick Odierno	W	W	Bronx	7/2/1932
403	Alfred Corbellini	W	W	New York	7/15/1932
404	Alfred Cozzi	W	W	New York	7/15/1932
405	Louis Katoff	W	W	Bronx	7/22/1932
406	Frank Mayo	W	W	Bronx	7/22/1932
407	Luigi Raffa	W	W	Bronx	7/22/1932
408	George Harris	W	W	New York	9/2/1932
409	Joseph Brown	W	W	New York	12/10/1932
410	Charles Markowitz	W	W	New York	12/10/1932
411	Peter Harris	W	W	Cattaraugus	1/12/1933
412	Charles Bates	B	W	Bronx	1/12/1933
413	Thomas Carpenter	B	W	Bronx	1/12/1933
414	Alexander Nunes	W	W	Westchester	1/19/1933
415	William Turner	W	W	New York	2/2/1933
416	Alex Kasprczak	W	W	Niagara	4/20/1933
417	Bruno Polowicz	W	W	Niagara	4/20/1933
418	Antonio Lopez	H	W	New York	5/25/1933
419	William H. Jackson	B	B	Niagara	6/1/1933
420	Nathaniel Covington	B	C	New York	7/13/1933
421	John Jordan	W	W	Queens	8/17/1933

422	George Swan	W	W	Queens	8/17/1933
423	Stephen R. Wetherell	W	W	St. Lawrence	8/17/1933
424	Alex Carrion	H	W	Bronx	8/24/1933
425	Frank Negron	H	W	Bronx	8/24/1933
426	Henry Edmonds	B	W	Bronx	9/1/1933
427	John Tinsley	B	W	Bronx	9/1/1933
428	John McKinney	B	B	Suffolk	9/1/1933
429	Herman Cunningham	B	W	New York	1/11/1934
430	Winston C. Owens	B	W	New York	1/11/1934
431	Joseph Willis	B	W	New York	1/11/1934
432	Lloyd Price	B	W	Kings	3/1/1934
433	Joseph Kriesberg	W	W	Bronx	6/7/1934
434	Anthony Marino	W	W	Bronx	6/7/1934
435	Frank Pasqua	W	W	Bronx	6/7/1934
436	Ross Caccamise	W	W	Monroe	6/14/1934
437	William Vogel	W	W	New York	6/14/1934
438	Joseph Murphy	W	W	Bronx	7/5/1934
439	Frank Canora	W	W	Rockland	7/12/1934
440	<i>Anna Antonio</i>	W	W	Albany	8/9/1934
441	Sam Faraci	W	W	Albany	8/9/1934
442	Vincent Sietta	W	W	Albany	8/9/1934
443	Alphonse Brengard	W	W	Nassau	9/6/1934
444	Harold Seaman	W	W	Kings	1/10/1935
445	Vincent Walsh	W	W	New York	1/10/1935

446	Frank Mitchell	W	W	New York	1/17/1935
447	Giuseppe Leonti	W	W	New York	1/24/1935
448	Peter Crotty	W	W	Bronx	2/7/1935
449	William Paskowitz	W	W	Bronx	2/7/1935
450	Alfred Giallarenzi	W	W	Onondaga	2/7/1935
451	Vincent DeLeo	W	W	Clinton	2/21/1935
452	Stanley Pluzdrak	W	W	Erie	4/25/1935
453	Bruno Salek	W	W	Erie	4/25/1935
454	<i>Eva Coo</i>	W	W	Otsego	6/27/1935
455	Leonard Scarnici	W	W	Schoharie	6/27/1935
456	Patrick N. Downey	W	W	Suffolk	7/11/1935
457	Alfred J. Lindsay	W	W	Cattaraugus	8/29/1935
458	Jeff Brown	B	W	New York	12/5/1935
459	Percy Morris	B	W	New York	12/5/1935
460	Amerigo Angelini	W	W	New York	1/9/1936
461	Ray Orly	W	W	New York	1/9/1936
462	Newman Raymond	W	W	New York	1/9/1936
463	Thomas Rooney	W	W	New York	1/9/1936
464	Albert H. Fish	W	W	Westchester	1/16/1936
465	John Smith	B	B	Bronx	1/16/1936
466	Frank A. Flynn	W	W	Queens	2/27/1936
467	Howard Eichler	W	W	Westchester	4/16/1936
468	Peter Mohlsick	W	W	Westchester	4/16/1936
469	Nick Buckvich	W	W	Monroe	4/23/1936

470	Vincent DeMartino	W	W	Kings	5/29/1936
471	Charles Kropowitz	W	W	Kings	5/29/1936
472	George Rosenberg	W	W	Kings	5/29/1936
473	Frank Russo	W	W	Kings	5/29/1936
474	Damiano Consentino	W	W	Kings	6/4/1936
475	John Collins	W	W	Queens	7/9/1936
476	Everett C. Applegate	W	W	Nassau	7/16/1936
477	<i>Mary Frances Creighton</i>	W	W	Nassau	7/16/1936
478	Raymond Flores	H	B	New York	7/23/1936
479	Thomas McFarland	W	W	Kings	8/20/1936
480	Charles Rogas	W	W	Kings	8/27/1936
481	Joseph Bologna	W	W	Kings	1/7/1937
482	Theodore DiDionne	W	W	Kings	1/7/1937
483	Louis Lazar	W	W	Kings	1/14/1937
484	John Fiorenza	W	W	New York	1/21/1937
485	Frederick Fowler	B	W	Kings	1/21/1937
486	Charles Ham	B	W	Kings	1/21/1937
487	Charles White	B	B	Nassau	1/21/1937
488	Alfred D. Volckmann	W	W	Greene	2/11/1937
489	Chew Wing	C	C	New York	6/19/1937
490	Watson Edwards	W	W	Kings	7/1/1937
491	Harry Eisenberg	W	W	Kings	7/1/1937
492	Anthony Garlaus	W	W	Kings	7/1/1937
493	Major Green	B	W	Queens	8/19/1937

494	Louis Apicello	W	W	Kings	8/26/1937
495	Salvatore Ossido	W	W	Kings	1/6/1938
496	Charles James Brown	B	W	Ulster	2/24/1938
497	Terrence Roberts	W	W	New York	5/26/1938
498	Lawrence Marks	W	W	Kings	6/2/1938
499	John Felix Cummings	W	W	Kings	8/11/1938
500	George Lewis	W	W	Kings	8/11/1938
501	John Rylowicz (Reo)	W	W	Nassau	8/18/1938
502	David Lucas	B	W	Niagara	1/15/1939
503	Salvatore Gatti	W	W	New York	1/5/1939
504	Charles Sberna	W	W	New York	1/5/1939
505	Vincente Forte	W	W	Kings	1/12/1939
506	Arthur Friedman	W	W	New York	1/26/1939
507	Dominic Guariglia	W	W	New York	1/26/1939
508	Joseph O'Laughlin	W	W	New York	1/26/1939
509	Thomas Gilmore	W	W	Orange	2/9/1939
510	Thomas Bohan	W	W	New York	2/16/1939
511	Michael Hermanowski	W	W	Suffolk	2/16/1939
512	Michael Alex	W	W	New York	2/23/1939
513	Arthur Perry	B	B	Queens	8/24/1939
514	Theodore Maselkiewicz	W	W	Erie	12/21/1939
515	Everett McDonald	B	B	New York	12/21/1939
516	Anton Myslivic	W	W	Suffolk	12/21/1939
517	Anselmo Abreu	H	H	Bronx	1/4/1940

518	Demetrius Gula	W	W	New York	1/11/1940
519	Joseph S. Sacoda	W	W	New York	1/11/1940
520	Sidney Markham	W	W	Kings	1/18/1940
521	Frank Jenner	W	W	Onondaga	2/15/1940
522	John Kulka	W	W	New York	2/15/1940
523	Bartel Thingstead	W	W	New York	2/15/1940
524	Gus Schweinberger	W	W	Westchester	4/25/1940
525	Oliver R. Alridge	B	W	Cattaraugus	7/11/1940
526	James Pryor	B	W	New York	7/11/1940
527	Norman Wheelock	W	W	Steuben	8/1/1940
528	Benjamin Ertel	W	W	New York	9/12/1940
529	Frank Blazek	W	W	Bronx	9/12/1940
530	Major Greenfield	B	W	Bronx	1/9/1941
531	Eugene Brown	B	H	New York	2/6/1941
532	Norman Williams	B	H	New York	2/6/1941
533	Walter Bowling	W	W	Kings	2/13/1941
534	Arcangelo D'Agnosto	W	W	Kings	2/13/1941
535	George Dolny	W	W	Kings	2/13/1941
536	Joseph P. Carosella	W	W	Nassau	2/20/1941
537	David Adler	W	W	New York	2/20/1941
538	Hyman Balatnikov	W	W	New York	2/20/1941
539	Peter Salemi	W	W	Kings	6/5/1941
540	Martin Goldstein	W	W	Kings	6/12/1941
541	Harry Strauss	W	W	Kings	6/12/1941



542	Dewey Garrett	B	B	New York	7/10/1941
543	Stanley Cole	W	W	New York	7/10/1941
544	George Zeitz	W	W	Kings	9/18/1941
545	Isaac Richardson	B	W	New York	1/8/1942
546	Henry Ancrum	B	W	New York	1/15/1942
547	Ralph G. Jones	B	W	New York	1/15/1942
548	Arturo Renna	H	W	Bronx	1/22/1942
549	Thomas Conroy	W	W	Bronx	1/22/1942
550	Frank Abbando	W	W	Kings	2/19/1942
551	Harry Maione	W	W	Kings	2/19/1942
552	George Joseph Cvek	W	W	New York	2/26/1942
553	Morris Mardavich	W	W	New York	3/5/1942
554	Anthony Esposito	W	W	New York	3/12/1942
555	William Esposito	W	W	New York	3/12/1942
556	Charles McGale	W	W	Westchester	6/11/1942
557	Joseph Riordan	W	W	Westchester	6/11/1942
558	Carlo Barone	W	W	Kings	9/10/1942
559	Edward Hicks	B	W	Kings	9/10/1942
560	Manuel Jacinto	H	W	Orange	9/17/1942
561	James Clark	B	W	New York	9/17/1942
562	Lawrence Edwards	B	W	New York	9/17/1942
563	Edmund Sileo	W	W	New York	1/14/1943
564	Joseph Sonsky	W	W	New York	1/14/1943
565	Frank Castellano	W	W	New York	1/21/1943

566	Angelo Mendez	H	W	New York	1/21/1943
567	Harold J. Elling	W	W	New York	3/4/1943
568	John Cullen	W	W	New York	4/29/1943
569	Eli Shonbrun	W	W	New York	4/29/1943
570	Benitez DeJesus	B	W	New York	7/8/1943
571	William Diaz	B	W	New York	7/8/1943
572	Edward Haight	W	W	Westchester	7/8/1943
573	Alfred Haynes	B	B	Kings	7/15/1943
574	Anibal Almodovar	H	H	New York	9/16/1943
575	Joseph C. Mascari	W	W	Madison	1/6/1944
576	Herbert Lewis	B	B	Kings	1/13/1944
577	Louis Valle	W	W	Nassau	1/21/1944
578	John Regan	W	W	New York	2/10/1944
579	Joseph Palmer	W	W	Kings	3/2/1944
580	Vincent Soolami	W	W	Kings	3/2/1944
581	Louis Buchalter (Lepke)	W	W	Kings	3/4/1944
582	Louis Capone	W	W	Kings	3/4/1944
583	Emanuel Weiss	W	W	Kings	3/4/1944
584	John Ranford	B	W	Nassau	5/25/1944
585	Louis Parisi	W	W	New York	6/3/1944
586	Gordon Cooke	B	B	Kings	6/22/1944
587	Winston A. Sealy	B	B	Kings	6/22/1944
588	Alex Bellomo	W	W	New York	6/29/1944
589	Peter DeLutro	W	W	New York	6/29/1944

590	Frank DiMaria	W	W	New York	6/29/1944
591	Lew York Hing	C	W	New York	8/31/1944
592	Yeun Tieh Liu	C	W	New York	8/31/1944
593	<i>Helen Fowler</i>	B	W	Niagara	11/16/1944
594	George F. Knight	B	W	Niagara	11/16/1944
595	Oliver Little	B	B	New York	1/17/1946
596	George W. Donaldson	W	W	Rensselaer	3/7/1946
597	Abraham Gold	W	W	Kings	4/25/1946
598	Louis D. Brookins	W	W	Monroe	9/12/1946
599	Edward Kahkoska	W	W	Queens	3/6/1947
600	Edward Koberski	W	W	Queens	3/6/1947
601	Henry Suckow	W	W	Queens	3/6/1947
602	Arthur Johnson	B	W	Kings	4/17/1947
603	William Washington	B	W	Kings	4/17/1947
604	Ward B. Caraway	B	W	Nassau	7/3/1947
605	William J. Thomas	B	W	New York	7/10/1947
606	Edward Jones	B	W	Kings	7/10/1947
607	Arnold Simms	B	W	Kings	7/10/1947
608	Salvatore DiCristofaro	W	W	Erie	7/10/1947
609	Webster Daniel	B	W	New York	8/21/1947
610	Enix Bussey	B	C	New York	12/4/1947
611	Jauvham Jackson	B	W	Kings	1/8/1948
612	Anthony R. Papa	W	W	Nassau	7/1/1948
613	Lester Haughton	B	W	Bronx	7/22/1948

614	George C. Moore	B	W	Bronx	7/22/1948
615	John Reilly	W	W	New York	9/16/1948
616	Milton Shaket	W	W	New York	9/16/1948
617	Harris Gray	B	W	New York	1/6/1949
618	Louis Smiley	B	W	New York	1/13/1949
619	Willie Grant	B	H	New York	1/20/1949
620	George L. Monge	B	H	New York	1/20/1949
621	Eugene Pannell	B	H	New York	1/20/1949
622	Santo Bretagna	W	W	New York	3/3/1949
623	William Rosenberg	W	W	New York	3/3/1949
624	Harold Dupree	B	B	New York	6/30/1949
625	Herman Dupree	B	B	New York	6/30/1949
626	John M. Dunn	W	W	New York	7/7/1949
627	Andrew Sheridan	W	W	New York	7/7/1949
628	Floyd Arrington	B	W	New York	9/1/1949
629	William M. Jackson	B	W	New York	9/1/1949
630	Walter Davis	B	W	Kings	9/8/1949
631	Frank Bruno	W	W	Kings	1/5/1950
632	George Peter Reeh	W	W	New York	1/12/1950
633	Julio Ramirez Perez	H	W	New York	5/25/1950
634	Harley LaMarr	NA	W	Erie	1/11/1951
635	Willie Winston Bunch	B	B	Nassau	2/15/1951
636	Gilberto C. Walker	B	B	New York	3/1/1951
637	<i>Martha J. Beck</i>	W	W	Bronx	3/8/1951

638	Raymond Fernandez	H	W	Bronx	3/8/1951
639	John Joseph King	W	W	Queens	3/8/1951
640	Richard J.J. Powers	W	W	Queens	3/8/1951
641	John Saiu	W	W	Bronx	4/12/1951
642	Bernard Stein	W	W	New York	3/6/1952
643	Wallace Ford, Jr.	B	B	Genesee	10/30/1952
644	Edward H. Kelly	W	W	Ulster	10/30/1952
645	Joseph L. Paonossa	W	W	Dutchess	1/15/1953
646	Stephen DeFoe Lewis	W	W	Genesee	1/22/1953
647	Frank Wojcik	W	W	Wyoming	4/16/1953
648	<i>Ethel Rosenberg</i>	W	NA	Federal	6/19/1953
649	Julius Rosenberg	W	NA	Federal	6/19/1953
650	Donald Hugh Snyder	W	W	Putnam	7/16/1953
651	William H. Draper	W	W	Monroe	7/23/1953
652	Walter Griffen	W	W	Erie	1/7/1954
653	Maurice O'Dell	W	W	Erie	1/7/1954
654	Henry Louis Allen	B	W	Kings	3/11/1954
655	John Martin	B	W	Kings	3/11/1954
656	Emile H. Scott	B	W	New York	7/15/1954
657	William Vanderwyde	W	W	New York	7/22/1954
658	Gerhard A. Puff	W	W	Federal	8/12/1954
659	John Dale Green	W	W	Bronx	8/26/1954
660	Barry Jacobs	W	W	Bronx	8/26/1954
661	Henry Matthews	W	W	New York	2/10/1955

662	Romulo Rosario	H	H	New York	2/17/1955
663	Calman Cooper	W	W	Westchester	7/9/1955
664	Harry Stein	W	W	Westchester	7/9/1955
665	Nathan Wissner	W	W	Westchester	7/9/1955
666	Edward J. Nichols	B	B	New York	9/8/1955
667	Clarence M. Reed	B	B	New York	9/8/1955
668	Willaim S. Byers	W	W	New York	1/12/1956
669	Norman Roye	B	B	New York	1/19/1956
670	John Francis Roche	W	W	New York	1/26/1956
671	Ernest Lee Edwards	W	W	Kings	6/28/1956
672	Frank J. Newman	W	W	Nassau	8/23/1956
673	Joseph Reade	W	W	Chautauqua	8/30/1956
674	Leonardo Salemi	W	W	New York	2/28/1957
675	McDonald F. Browne	W	W	Bronx	3/14/1957
676	Miguel Santiago	H	H	New York	8/15/1957
677	David Taylor	B	W	Bronx	11/21/1957
678	Elmer Burke	W	W	New York	1/9/1958
679	Nicholas Dan, Jr.	B	W	Niagara	7/3/1958
680	Angelo J. LaMarca	W	W	Nassau	8/7/1958
681	Virgil Richardson	B	W	Queens	11/20/1958
682	Edward Eckwerth	W	W	Westchester	5/22/1959
683	Ralph Dawkins	B	W	Queens	7/16/1959
684	Jackson Turner, Jr.	B	W	Queens	7/16/1959
685	Leroy Keith	B	W	Bronx	7/23/1959

686	Ivory Mason	B	NA	New York	1/14/1960
687	Pablo Vargas	H	H	New York	5/12/1960
688	Henry Flakes	B	W	Erie	5/19/1960
689	Walter T. Green	B	W	Erie	5/19/1960
690	Willard H. Phillips	B	B	Nassau	6/23/1960
691	Ronald Chapman	B	W	New York	12/1/1960
692	Ralph Downs	B	W	Bronx	1/5/1961
693	Woodrow Miller	B	W	Kings	1/8/1961
694	Frederick C. Woods	W	W	Queens	3/21/1963
695	Eddie Lee Mays	B	H	New York	6/15/1963

All the executions were the result of murder convictions except for two kidnapping cases (Joseph Sacoda and Demetrius Gula, executed 1940) and two individuals convicted for espionage (Ethel and Julius Rosenberg, executed in 1953).