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**THE JUVENILE DEATH PENALTY TODAY:**

**DEATH SENTENCES AND EXECUTIONS**

**FOR JUVENILE CRIMES,**

**JANUARY 1, 1973 - DECEMBER 31, 2002**

by

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ASSEMBLY JUDICIARY

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## PREFACE

*Beginning with the first legislative enactments of modern death penalty statutes in 1973, we now have exactly thirty years of death sentences being imposed in American jurisdictions. This post- 1973 time period is referred to as the current era of the death penalty and operates under quite different laws and procedures than did earlier death penalty eras. This is the 64th issue of this periodic report, having first been launched on June 15, 1984. On that date, the death penalty for juvenile offenders was an obscure issue in law as well as in the political and social arenas. These reports have been with us (1) through the intense litigation of the late 1980s, (2) through our society's near hysteria about violent juvenile crime, (3) into the era of the international pressure on the United States to abandon this practice, and (4) now into a revitalized movement to finally end this practice. The solitary goal of these reports is to collect in one place the best available data and information on the death penalty for juvenile offenders. For purposes of consistency, "juvenile offenders" are defined as those under age 18 at the time of their crimes.*

*These reports sketch the characteristics of the juvenile offenders and their crimes who have been sentenced to death, who have been executed, and who are currently under death sentences. Nonetheless, these reports almost invariably under-report the number of death-sentenced juvenile offenders due to difficulty in obtaining accurate data. One other source of confusion and occasional inaccuracy is the difference between being legally under a sentence of death and being physically on a state's death row. This report chronicles the exact date of imposition and reversal or removal of the death sentence by a court or executive officer. Therefore, the list of persons currently under juvenile death sentences excludes those for whom the sentence has been legally reversed or removed, even if the case is still being reviewed or reconsidered. However, it is not uncommon for such a person to continue to be housed on the prison's death row even though no longer legally under a death sentence. This list also includes those persons under legal death sentences who are housed temporarily in local jails or prisons rather than the jurisdiction's death row prison. Such temporary housing typically occurs (1) when the individual has just been sentenced to death but not yet transported to the death row prison or (2) when he or she is serving as a witness or defendant in another trial or proceeding and needs to be located nearby. In either case, they are under sentences of death but are not actually on death row and often are not even known or listed by the prison officials.*

*It is left to other documents and to other organizations to argue about the pros and cons of this practice, with the hope that these data will inform those arguments and deliberations. Therefore, while a sketch of both pro and con rationales is provided, this report takes no position on the legality, the wisdom, or the morality of the death penalty for juvenile offenders. The author of these reports has been involved with this issue for nearly thirty years as a researcher and as an attorney. References to some of those involvements can be found in Appendix C to this report.*

## EXECUTIVE SUMMARY

- Beginning with the first in 1642, at least 365 juvenile offenders have been executed by 38 states and the federal government, constituting less than 2% of the total of about 20,000 confirmed American executions since 1608.
- Twenty-one of these 365 executions for juvenile crimes have been carried out during the current era (1973-2002), constituting 2.6% of the total of 820 executions during this period.
- Almost two-thirds of the recent executions of juvenile offenders have occurred in Texas, with no other jurisdiction in the world actively involved in this practice.
- A total of 224 juvenile death sentences have been imposed since 1973, with Texas, Florida and Alabama accounting for half of them.
- Of these 224 current-era juvenile death sentences, 80 remain currently in force and still being litigated. Of the other 144 sentences finally resolved, 21 (15%) have resulted in execution and 123 (85%) have been reversed or commuted.
- The U. S. Supreme Court has held that the U. S. Constitution prohibits execution for crimes committed at age 15 and younger (*Thompson v. Oklahoma*, 487 U.S. 815 (1988)) but permits execution for crimes at ages 16 or older (*Stanford v. Kentucky*, 492 U.S. 361 (1989)). However, the Court now appears nearly ready to declare unconstitutional all executions for crimes committed at age 17 or younger (*In re Stanford*, 123 S.Ct. 472 (2002)).
- The annual death sentencing rate for juvenile offenses has been declining rapidly and now is much less than half of the annual rate of the late 1990s.
- Of America's 40 death penalty jurisdictions, 18 jurisdictions have expressly chosen a minimum age of 18, 5 jurisdictions have chosen an age 17 minimum, and the other 17 death penalty jurisdictions use age 16 as the minimum age. However, about 10 other state legislatures are now considering raising their minimum ages to 18.
- Every other nation in the world has joined international agreements prohibiting the execution of juvenile offenders, with only the United States refusing to abandon laws permitting the juvenile death penalty.
- Given the declining sentencing rate, the increased legislative activity, and the continuing international pressure, these may be the last days of the juvenile death penalty in America.