

# Racial Justice Act

---

## Equal Justice Under Law

### QUESTIONS AND ANSWERS ABOUT THE RACIAL JUSTICE ACT

#### WHAT IS THE RACIAL JUSTICE ACT?

The Racial Justice Act is a response to numerous studies which have revealed an unmistakable pattern of racial bias in the decision to impose the death penalty. Though the proposed legislation would not stop states from using the death penalty, it would create a federal right to have death sentences imposed under procedures that are free of the effects of racial bias.

#### WHY IS THIS LEGISLATION NEEDED NOW?

In the recent case of McCleskey v. Kemp, the Court acknowledged the overwhelming evidence that racial bias may influence capital sentences but declined to set aside the execution. Curbing system-wide bias, the Court said, was best addressed by the legislature. Congress has the authority and the responsibility under the fourteenth amendment of the Constitution to ensure equal protection and due process in courts throughout the nation.

#### WHAT WOULD THE RACIAL JUSTICE ACT DO?

The bill would prohibit a state from imposing the death penalty if a criminal defendant could show, by using statistical evidence, racial disparities in the pattern of capital sentences within that state. For example, the evidence might show a greater likelihood of death sentences for killing whites than for killing blacks or for black defendants than for white defendants. In both cases, unless the state could present clear and convincing evidence that the apparent racial disparity is due to non-racial factors, no death sentence can be imposed on the defendant.

The bill is intended to require the states to take every precaution to ensure that racial bias (which may be manifested in prosecutorial discretion, prejudice among jurors, etc.) does not influence the state's decision to punish a defendant by death. Though many states, after the Furman decision in 1976, already have adopted carefully enumerated procedures to avoid arbitrary and capricious capital sentencing decisions, they have been so far unable to remove the effects of system-wide racial bias in the death penalty. The proposed legislation would require the states to go the next step, or forego use of punishment by death.

# Racial Justice Act

## Equal Justice Under Law

### EXECUTIONS IN AMERICA

Since 1976

(As of January 31, 1989)

Total Executions since 1976 reinstitution of capital punishment: 106

'76	'77	'78	'79	'80	'81	'82	'83	'84	'85	'86	'87	'88	'89
0	1	0	2	0	1	2	5	21	18	18	25	11	2

#### Race of Those Executed

Black defendants . . . 41 (38.68%)  
White defendants . . . 59 (55.66%)  
Hispanic defdnts . . . 6 ( 5.66%)

TOTAL . . 106

#### Race of Their Victims

Black victims . . . 11 (10.28%)  
White victims . . . 92 (85.98%)  
Hispanic vics . . . 3 ( 2.80%)  
Asian victims . . . 1 ( .93%)

TOTAL . . 107

(One defendant killed a white  
and a minority victim)

#### Racial Combinations

White defendant/White vic . . . 59 (55.14%)  
Minority defdnt/White vic . . . 33 (30.84%)  
Minority defdnt/Mnrty vic . . . 15 (14.02%)  
White defendant/Mnrty vic . . . 0 ( 0.00%)

#### Executions by State

Alabama	3	Nevada	2*
Florida	20	North Carolina	3
Georgia	13	South Carolina	2
Indiana	2*	Texas	29
Louisiana	18	Utah	3**
Mississippi	3	Virginia	7
Missouri	1		

\* Both inmates voluntarily gave up appeals

\*\* Two of three executions were voluntary