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Re: Article Submission

Title: *Does It Matter How Clemency Is Dispensed? An Analytical Approach in Evaluating the Myths and Truths of Clemency Since 1977*

Please find an accompanying article providing an analytical approach as to how clemency is dispensed by the various states, and whether the structure of the decisionmaking authority influences whether clemency is granted at the same rate as with other structures. Generally speaking, there are four structures by which clemency is dispensed by the states in the United States: A Governor Only structure, a Governor with a Binding Recommendation from an Executive Board, a Governor with a Non-Binding Recommendation from an Executive Board, and an Independent State Board. The rate at which each structure grants clemency is discussed and analyzed.

In 2004, an American Bar Association-commissioned report offered recommendations to expand the use of clemency, as it believed that clemency was an extra-judicial process that was systematically being phased out. Furthermore, the report affirmatively stated that one of the issues affecting the application of clemency was the structure of the decisionmaking that provided clemency. It was assumed, not only by the commission but in general, that a clemency decisionmaking structure based within the prerogative of an executive resulted in fewer grants of clemency than that of an independent State Board. Clemency in the hands of an executive resulted in the dispensing of clemency at a lower rate than that dispensed by an independent State Board.

The accompanying article discusses the evolving life of clemency, and actions being taken (and not taken) to skew the perception that clemency is not in integral part of an extra-judicial process, and research is provided that statistically provides that the structure of the decisionmaking method for clemency does not impact the rate at which clemency is granted, and in fact, it demonstrates that clemency is granted at a greater rate through executive-based clemency decisionmaking structures, counter what was originally believed by the commission.

If you have any questions, please feel free to contact me at any time.

Thank you

Does It Matter How Clemency Is Dispensed? An Analytical Approach in Evaluating the Myths and Truths of Clemency Since 1977

by

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^{*} Walter Sowa, III, Stetson University College of Law, Class of 2012. I would like to thank N. Adam Tebrugge, Adjunct Professor of Law at Stetson University College of Law, for his support in the creation of this article. With over twenty years in the forefront of the death penalty issue, Professor Tebrugge provides the depth and breadth of professional experience needed to complement a complete academic experience of the application of the death penalty in the United States. Stetson is fortunate to have such an academic heavyweight as a Professor. Finally, I would like to thank my daughters Emily, Audrey and Lily.

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I. Introduction

Recently, the interest of clemency as a true component of the criminal justice system, as opposed to just being a mechanism for mercy, has increased. Beginning with the cases of Herrera v. Collins, 506 U.S. 390 (1993) where the court held the “(c)lemency is deeply rooted in our Anglo-American tradition of law, and is the historic remedy for preventing miscarriages of justice where judicial process has been exhausted”¹, following up with Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998) where Justice O’Connor, along with Justices Souter, Ginsburg, and Breyer offered that there must be some “minimal procedural safeguards (in place that) apply to clemency proceedings”², and finishing with Harbison v. Bell, 129 S. Ct. 1481 (2009), where the

¹ Herrera v. Collins, 506 U.S. 390, 412 (1993).

² Ohio Adult Parole Authority v. Woodard, 523 U.S. 272, 289 (1998).

court held that Congress intended that indigent defendants be provided legal counsel up to an including clemency hearings, and as such counsel needed to be provided to represent them in state clemency proceedings³, a renewed interest has developed in clemency as a component of the judicial process, even though it may be a function of the executive and/or legislative branch.

Building on this concept, the American Bar Association Justice Kennedy Commission Report to the House of Delegates (hereinafter referred to as the “Kennedy Commission Report”) in 2004 offered recommendations (and incorporated as a policy statement) for “states, territories and the federal government to expand the use of executive clemency and: (1) establish standards governing applications for executive clemency, including both commutation of sentence and pardon; and (2) specify the procedures that an individual must follow in order to apply for clemency and ensure that they are reasonably accessible to all persons.”⁴ Furthermore, the Kennedy Commission Report “urges states, territories and the federal government to establish an accessible process by which offenders who have served their sentences may request pardon, restoration of legal rights and privileges, including voting rights, and relief from other collateral disabilities.” The recommendations of the report are based upon the condition that the act of providing clemency has declined dramatically since 1990⁵ and that the effectiveness and use of clemency is based upon the structure of the clemency process,

³ *Harbison v. Bell*, 129 S. Ct. 1481, 1485 (2009).

⁴ American Bar Association Justice Kennedy Commission, *Reports with Recommendations to the ABA House of Delegates, Report to the House of Delegates on Clemency, Sentence Reduction, and Restoration of Rights* 64-71, 64 (ABA 2004).

⁵ *Id.* at 70.

where more pardons are granted when the decision makers are “insulated from politics.”⁶

In this case, the commission found that “pardons tend to be granted more regularly and generously in the five states where the pardon power is exercised by an independent board with no involvement by the governor than it is in the 22 states where the governor exercises the power subject to no procedural constraints.”⁷ The report serves up the unverified statements that not only has clemency decreased, but that it has decreased because of the way the clemency mechanism is structured.

If that is truly the case, what other components, if any, of the differing structures can be culled and presented together as a viable way of improving the procedural and substantive procedures of the clemency process to make it a component that will comport with the judicial process? The commission offers recommendations to improve the clemency process and to effectively re-introduce clemency as an alternate path for sentence reductions and commutations, namely by establishing standards for clemency applications and detailing procedures that a person would need to follow to apply for clemency.⁸ The apparent expectation of the commission report is that by creating standards for clemency requests and the procedures necessary to implement them, the mechanism of clemency will once again function as an alternate path. The two issues that will be addressed, therefore, are whether there truly has been a retreat in the granting of clemency post-Gregg, and does the type of mechanism or system in place for handling clemency make a difference. Compounding those two issues, if there has indeed been a

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 64.

retreat in clemency decisions, is it a result of the mechanism by which it is decided? That is, if the clemency decision involves some type of involvement by the Governor as opposed to an independent board, is this structure preventing the traditional use of clemency now to the detriment of society?⁹

In an attempt to reconcile these issues with the reality of the situation, the topic will be developed in this paper to include 1) an overview of the mechanism of clemency in the United States, 2) an overview of the history of clemency in the United States pre-Furman and post-Gregg, 3) an overview of the reasoning of the need for clemency in the United States, 4) a descriptive analysis as to whether there has been a decline in clemency post-Gregg, with an emphasis on isolating the least favorable and most favorable mechanism for the clemency process, 5) an introduction and discussion of the reasons postulated for the decline in clemency, if indeed there has been a decline, 6) a summary detailing in further detail, by comparison and contrast, the mechanisms of the clemency process and identifying which process, if any, provides more favorable mechanism for clemency, and 7) a summation of the clemency process today as it relates to the assumptions outlined in the Kennedy Commission Report. In addition, clemency will be discussed exclusively as to how it impacts death row inmates, as these cases present

⁹ Clemency, as referred in this paper, will deal exclusively with capital cases, as it traditionally does as provided in *A Matter of Life and Death: Due Process Protection in Capital Clemency Proceedings*, 90 Yale L.J. 889, 890 (1980-1981) in n. 4. In addition, throughout this paper, clemency refers to any type of pardon, reprieve, or commutation of sentence by an executive or legislative branch agency (extra-judicial) that will reduce a sentence to something other than death. It could include the remission of fines or forfeitures, but that aspect will not be addressed here. Also, the two seminal cases to be referenced in this topic are Furman v. Georgia, 408 U.S. 238 (1972) and Gregg v. Georgia, 428 U.S. 153 (1976). The Court in Furman found the death penalty unconstitutional as a violation of the Eighth and Fourteenth Amendments as cruel and unusual punishment in that the death penalty as applied was arbitrary and capricious. In Gregg, the Court found that the safeguards instituted by Georgia, namely mandatory appellate review, a bifurcated trial system, and the ability to present mitigating evidence in support of a lesser punishment, supported a death penalty system that passed constitutional muster as being neither cruel nor unusual and thus permissible.

special challenges not only to the systems, but also the very nature of clemency as a method for sentence reduction. They are the most extreme cases to examine, and as such, are the most detailed situations.

II. Overview of Mechanism for Clemency in United States

“Clemency Decisions – even in death penalty cases – are standardless in procedure, discretionary in nature, and unreviewable in result.”¹⁰ The Kennedy Commission Report provided, in an overview to the issues identified and incorporated into the recommendations that were offered, that “pardons tend to be granted more regularly and generously in the five states where the pardon power is exercised by an independent board with no involvement by the governor.”¹¹ The procedures and structure of the way clemency should be administered rests to a great extent on the mechanism by which it is dispensed.¹² In support of this, Cornell University Professor Michael Heise proffers in his research, to be discussed shortly, that “the theoretical prediction that the manner in which states structure clemency decisionmaking authority influences clemency decisions.”¹³ The commission, at this point, believes that the structure of the mechanism for clemency is so strongly correlated to how regularly and generously clemency is dispensed that it has been incorporated as a recommended feature

¹⁰ Hugo Adam Bedau, *The Decline of Executive Clemency in Capital Cases*, 18 N.Y.U. Rev. L. & Soc. Change, 257 (1990-1991) citing *A Matter of Life and Death: Due Process Protection in Capital Clemency Proceedings*, 90 Yale L.J. 889 (1980-1981).

¹¹ Justice Kennedy Commission, *supra* n. 4, at 70. These states were identified as Alabama, Connecticut, Georgia, Idaho, and South Carolina.

¹² *Id.*

¹³ Michael Heise, *Mercy By The Numbers: An Empirical Analysis of Clemency and Its Structure*, 89 Va. L. Rev. Number 2, 239, 307 (2003).

for change if there is to be meaningful change in the increased frequency in clemency actions.¹⁴

Generally speaking, as illustrated in Table 1¹⁵ in the Appendix, there are four different structures that the states utilize for clemency decisionmaking. The types in use are a Governor Only structure, in which case the Governor has the sole discretion in granting clemency (referred to henceforth as “Governor Only”), a Governor structure requiring a binding recommendation for a State Board (referred to henceforth as “Governor With Binding Recommendation”), and Governor structure requiring a non-binding recommendation from a State Board (in which a Governor is required to receive some type of recommendation, but is free to act regardless of the recommendation, referred to henceforth as “Governor With Non-Binding Recommendation”), and an independent State Board (referred throughout as “State Board”), perhaps appointed by the Governor, but distinct enough to exercise independent decisionmaking authority apart from the Governor.¹⁶ Although the variations of the mechanisms suggest the unfettered ability to grant clemency at will, clemency is still restricted as to eligibility of recipient, as legislated through statutes of the state and administrative policies enacted.¹⁷ In

¹⁴ Justice Kennedy Commission, *supra* n. 4, at 70.

¹⁵ Table 1 in the Appendix provides a graphical representation of the authority for clemency, a general overview of the system in place, restrictions, if any, on the application of clemency, number of death sentences post-Gregg, all executions and commutation from 1977 through 2009, and ratios of death sentences to executions and commutations to executions. All detailed state data is provided for that time frame. Throughout the course of this topic, Table 1 will be referred to and provides much of the support for the data presented and discussed.

¹⁶ Authority for the various structures, as well as how each state is classified, is contained within Table 1.

¹⁷ Although it is true that in the majority of the states any defendant is eligible for clemency, select states have legislatively restricted eligibility of clemency. Table 1 provides a listing of restrictions imposed administratively and legislatively. Although some restrictions may seem benign, such as Michigan administratively limiting an inmate’s request to every two years, Connecticut legislatively requires that an inmate serve at least four years of a minimum eight year sentence and West Virginia requires an inmate to have served at least fifteen years before eligibility is available. Source: <http://www.cjpf.org/clemency> as accessed on October 31, 2010.

addition, the classification of the four systems is a generalized approach to place each system in a category for comparative purposes only. Sufficient traits of each system are used to create the classifications, and as such, one Governor Only system may have slight differences when compared to another, but generally would be considered to fit the pattern. Finally, an aggregation of the Governor mechanisms, entitled Governor, Varying Degrees, will be compared against the State Board systems, in an evaluation of the efficacy of one as compared to the other. The Governor, Varying Degrees will merely be an aggregation of the three types of Governor-centric mechanisms.

The Governor Only mechanism numerically is the most prevalent system in place. Twenty three states employ this method, of which thirteen are death penalty states.¹⁸ Again, various aspects of legislative statutes and administrative code provide some restriction on eligibility, but normally in this system the Governor has the authority to grant clemencies at will to ever he or she sees fit to. The Governor only system empowers the Governor in a similar manner as does the Constitution for the President. Statutory legislations provides the authority, and absent any statutory eligibility issues, the Governor is free to offer clemency to anyone he sees fit.¹⁹

The Governor With Binding Recommendation system has been implemented in ten states, of which seven are death penalty states.²⁰ This mechanism requires a binding

¹⁸ See Table 1.

¹⁹ See Table 1 for eligibility limitations.

²⁰ State Boards, as referenced through-out this paper, are normally administratively formed by the executive branch for the purpose of evaluating and administratively dealing with clemency and parole issues, with the authority for the creation of the State Board and the authority of the State Board to exercise powers granted to it. For example, Arizona Statutes, under Article 31 § 401. Board of executive clemency; qualifications; appointment; officers; quorum; meeting provides that “(t)he board of executive clemency is established consisting of five members who are appointed by the governor pursuant to this subsection and section 38-211. The governor shall appoint a selection

recommendation of clemency from a State Board, delivered to the Governor, prior to the Governor acting upon the clemency request. The binding recommendation provided by the State Board limits the authority of the Governor to act outside the recommendation of the State Board.

The Governor With Non-Binding Recommendation system is in place in twelve states, ten of which are death penalty states.²¹ The State Board associated with this mechanism will still serve as the gate keeper for clemency requests, and will also perform the investigations of the requests, if needed. However, once a recommendation for or against clemency has been submitted to the Governor, he or she alone makes the decision, whether it comports with the recommendation or not.²²

The final type of system in place is the State Board system, where an independent board functions to evaluate and grant, if needed, clemency requests throughout a state. Six states utilize a State Board to administer the procedural requests for clemency, and

committee consisting of the director of the department of public safety, the director of the state department of corrections and three other persons who shall submit a list of three qualified candidates to the governor for each vacancy on the board. The governor shall fill the vacancy by appointing a member to the board of executive clemency from the list” and Article 31 § 402. Powers of board; powers and duties of governor; powers and duties of executive director states that “(n)o reprieve, commutation or pardon may be granted by the governor unless it has first been recommended by the board.” The authority of the State Board has legislatively been created, as has the method for empanelling the commission. In this case, a binding recommendation is required by the State Board for the Governor to act.

²¹ See Table 1.

²² Missouri, for example, requires a non-binding recommendation from a State Board. Missouri Statute Chapter 217 Department of Corrections, § 217.800 Pardons by governor--conditions and restrictions--notice to central repository requires in paragraph two that “(a)ll applications for pardon, commutation of sentence or reprieve shall be referred to the board for investigation. The board shall investigate each such case and submit to the governor a report of its investigation, with all other information the board may have relating to the applicant together with any recommendations the board deems proper to make.” Once the board has submitted its report to the Governor, the Governor may “grant the same (pardons), with such conditions and under such restrictions as he may think proper.” Other states that following a Governor With Non-Binding Recommendation system more or less follow the same protocol. Slight variations in the duties and obligations of the Governor and the State Board may exist, yet all are generally structured the same. Table 1 provides the authoritative legislations for each state.

five of those states are death penalty states.²³ All State Board systems function similarly, and with minor variations, perform fairly uniformly.²⁴

The four mechanisms outlined provide the basis for clemency proceedings for the states in the United States. On a scale of executive authority, the Governor Only mechanism would rate vary highly, and would be followed by the Governor With Binding Recommendation, and then the Governor With Non-Binding Recommendation, to the State Board System.²⁵ In addition, the scale does comport with a scale of a highly political decisionmaking authority to one of a less political as clemency actions are applied.²⁶

As will be provided further, the four mechanisms can also get folded back into two classifications: Governor with Varying Degrees of Authority and State Boards. These classifications, although lacking the refinement of listed four, will be able to demonstrate whether the State Boards provides a more effective mechanism for clemency actions in a general sense (that is, being able to provide that State Boards provide more clemency actions than all other mechanisms). The Kennedy Commission Report provided “that

²³ See Table 1 for listing of states utilizing State Boards. As an example, Utah utilizes a State Board to administer clemency proceedings. Title 77 Utah Code of Criminal Procedure, Chapter 27 Pardons and Parole, § 5 Board of Pardons and Parole authority provides that “(t)he Board of Pardons and Parole shall determine by majority decision when and under what conditions, subject to this chapter and other laws of the state, persons committed to serve sentences in class A misdemeanor cases at penal or correctional facilities which are under the jurisdiction of the Department of Corrections, and all felony cases except treason or impeachment or as otherwise limited by law, may be released upon parole, pardoned, ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences commuted or terminated.”

²⁴ Table 1 lists all the constitutional, statutory, and administrative authority for the State Boards.

²⁵ Heise, *supra* n.13, at 307. “(T)o the extent that political factors influence clemency decision, this influence should be greatest in states that vest governors with plenary clemency authority.” A sliding scale of authority can be inferred as to how each mechanism comports by its level of political influence.

²⁶ “But, the reality was that in the atmosphere created by the war on crime many legislators and executive branch officials were more concerned about being perceived as “soft” on crime, than they were worried about sentences being inappropriately long in particular cases.”, Justice Kennedy Commission, *supra* n. 1, at 69.

pardons tend to be granted more regularly and generously in the five states where the pardon power is exercised by an independent board with no involvement by the governor.”²⁷ The impression provided is that an independent State Board is a better mechanism for reinstating clemency. This issue, as well as whether there really has been a decline in clemency actions will be detailed further into this topic.

III. Historical Overview of Clemency in the United States

Clemency, in the case of capital cases and as discussed in the topic, consists of two different available options. Commutation of a sentence to life in prison, with or without the possibility of parole, and the pardon of a person, which would imply the potentially conditioned release of the person, normally only if innocence is determined, are the only two available options.²⁸

Clemency in the United States is a tale of two paths: the Federal Clemency Power and the States Clemency Power. The federal clemency procedure ultimately flows from the Constitution, born from the British system of the clemency power.²⁹ Beginning with the colonization of the United States, the British King delegated in most cases the pardoning power to the colonial governors or direct representatives.³⁰³¹ During the American Revolution, there was strong sentiment in the air against providing too much power vested within the chief executive; ultimately, though, the clemency power was

²⁷ Justice Kennedy Commission, *supra* n. 4, at 70.

²⁸ Elizabeth Rapaport, *Straight is the Gate: Capital Clemency in the United States from Gregg to Atkins*, 33 N.M. L. Rev. 349, 350 (2003).

²⁹ Daniel T. Kobil, *The Quality of Mercy Strained: Wresting the Pardoning Power from the King*, 69 Tex. L. Rev. 569, 589 (1990-1991).

³⁰ *Id.*

³¹ *Id.* The clemency procedure in colonial Connecticut and Rhode Island and the Providence Plantations allowed for the assemblies to pardon or release criminals, subject to the presence of the colonial Governor and six of the colonial Assistant Governors. The balance of the colonies empowered the clemency power with the Governor.

provided to the chief executive.³² While various iterations of the pardoning power were contemplated, including the limitation of treasonable offenses to the requirement of concurrence by the Senate, the final clemency power provided the presidential power³³ to “Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.”³⁴

Over the years, though, there have been challenges to the power vested within the executive branch. Judicial review of the constitution power has occurred frequently. Clemency power has, however, been construed very liberally for the executive holding the authority. “The power thus conferred is unlimited, with the exception [for impeachment] stated. It extends to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon, nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions.”³⁵ The power of the pardon for the President of the United States is unlimited, and the power of the Governors of State Boards is limited only by their state constitution and legislation.³⁶

³² *Id.* at 590.

³³ *Id.*

³⁴ US Constitution, Article 2, Section 2.

³⁵ Ex parte Garland, 71 U.S. (4 Wall.) 333, 380 (1867).

³⁶ See Table 1 for limitations and restrictions.

The clemency powers in the states evolved in a slightly different manner. Prior to the American Revolution, the royal colonies³⁷ generally permitted the Governor to pardon for all offenses other than treason or intentional murder.³⁸ All the other colonies allowed the executive to administer clemency requests with the occasional input of other entities or authorities.³⁹ After the America Revolution, the states began to place limitations, either constitutionally or legislatively, on the clemency power of the executive, and hence the variations of clemency procedures,⁴⁰ and the limitation of non-pardonable offenses was born for the states.⁴¹ It should be noted that at this time a concerted effort by the states was under way to limit clemency, and as such, the legislature or legislative councils enacted legislation subjecting clemency to joint authorization with the Governor.⁴² Clemency was being shared, for all practical purposes.

Clemency for death penalty cases in this topic will focus on the application to the death sentences issued by the states. Clemency in some states is limited by statute and administrative policy, and hence its application would be subject to that. Clemency in this topic will focus on the commutation of a death sentence to something other than death.

³⁷ Virginia, New York, New Jersey, Massachusetts, New Hampshire, North Carolina, South Carolina.

³⁸ P.S. Ruckman, Jr., *Executive Clemency in the United States: Origins, Development and Analysis (1900-1993)*, 27 Presidential Studies Quarterly, 4 (1997).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* For instance, Pennsylvania and New York prohibited a pardon for treason. Massachusetts permitted pardons only after a conviction. The Georgia Constitution, however, forbade the Governor from issuing any pardons, and the New Hampshire Constitution vested the clemency power solely with the legislature.

⁴² Kobil, *supra* n. 29. at 590.

IV. A Reasoning for Clemency

Clemency was a concept inherited from Great Britain and integrated into the U.S Constitution to provide the executive branch with the tools needed to provide the following functional objectives⁴³: first, to allow the president to “moderate, heal, and avert social conflict by preventing punitive treatment of dissidents and rebels and to accomplish other stat purpose that might require overriding criminal justice apparatus;”⁴⁴ second, to correct the miscarriages of justice in ordinary criminal cases⁴⁵; and third, to address miscarriages of justice as a result of malfeasance in the criminal justice system.⁴⁶ Clemency serves to act as a check to balance the actions of other branches of government, without clemency being subjected to any check by any other branch.⁴⁷⁴⁸ It is an extrajudicial way of performing an “amelioration of miscarried justice and the correction of legal errors.”⁴⁹ And with regard to death penalty cases, clemency is needed even more to function as it was designed to, namely as a final check.⁵⁰

Broadly speaking, clemency exists for three generally reasons: the belief that it is constitutionally mandated to right a wrong⁵¹, the belief that it is strictly a merciful act, and the belief that although it exists outside the judicial process, it is still a component of

⁴³ Rapaport, *supra* n. 28, at 351.

⁴⁴ *Id.*, Kathleen Dean Moore as quoted from *Pardons: Justice, Mercy, and the Public Interest* 26-27 (1989).

⁴⁵ *Id.* at 352.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ And subject to restraints of minimal judicial review as outlined in Ohio Adult Parole Authority v. Woodard, 523 US 272 (1998).

⁴⁹ Heise, *supra* n. 13, at 252.

⁵⁰ *Id.*

⁵¹ Ridolfi, *infra* n. 55, at 26.

the judicial system.⁵² The origins of the British Crown clemency began not as an act of grace, but as a “tool for pecuniary and political aggrandizement”⁵³ Gradually, though, Parliament restricted the application of the King’ pardoning power, and a system was developed from which ours is modeled after.⁵⁴

The application of justice is a concept for which our judicial system is based upon. Elected officials, especially Governors and the President, have an obligation to uphold the constitutions of the United States and their respective state. As such, there is a belief that clemency is constitutionally mandated to ensure justice is served.⁵⁵ A Governor has the obligation, vested by his constitution and the United States Constitution, to provide clemency, if the situation exists that requires it. Governor George Ryan of Illinois, in 2003, commuted the sentence of every single death row inmate on death row.⁵⁶ In leaving office, he stated at an address at Northwestern University School of Law on January 11, 2003, that “(t)he Governor has the constitutional role in our state of acting in the interest of justice and fairness. Our state constitution provides broad power to the Governor to issue reprieves, pardons and commutations. Our Supreme Court has reminded inmates petitioning them that while errors and fairness questions may actually exist and cannot be recognized under judicial rules and procedural mandates, the last resort for relief is the Governor.”⁵⁷ A belief, even if only of one governor, that there is a

⁵² *Ohio Adult Parole Authority*, 523 U.S. at 289.

⁵³ Ruckman, *supra* n. 38, at p. 3. On interesting note is that James II sold pardons for 16,000 pounds sterling. He would keep half and split the rest between his two favorite ladies. See n. 2.

⁵⁴ *Id.*

⁵⁵ Kathleen (Cookie) Ridolfi and Seth Gordon, *Gubernatorial Clemency Powers, Justice or Mercy*, 24 Crim. Just. 26, Number 3, (2009).

⁵⁶ *Id.*

⁵⁷ *Id.*

constitutional mandate for him to exercise clemency when needed, is powerful when followed up with the act of mass clemency actions, as was the case when Governor Ryan commuted 167 death sentences in 2003.

Clemency can also be viewed as a merciful act reserved for those demonstrating remorse and rehabilitation, and not to correct judicial deficiencies.⁵⁸ In 1971, President Richard Nixon commuted the sentence James R. Hoffa, the former President of the International Brotherhood of Teamsters.⁵⁹ President Gerald Ford granted a full, unconditional pardon to Richard Nixon, without providing any reasoning, and President George Bush pardoned former Secretary of Defense Casper Weinberger.⁶⁰ The merciful act, though not necessarily apparent to all, is nearly without limitation. In addition, inherent in the structure of clemency is the concept that it is an extrajudicial act, subject to no review, but granted only on the grounds of humanity of the giver or receiver. “A pardon is an act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual, on whom it is bestowed, from the punishment the law inflicts for a crime he has committed. It is the private, though official act of the executive magistrate, delivered to the individual for whose benefit it is intended, and not communicated officially to the court. It is a constituent part of the judicial system, that the judge sees only with judicial eyes, and knows nothing respecting any particular case, of which he is not informed judicially.”⁶¹ The primary reason for mercy is that clemency is not based upon any particular act. It is a discretionary act that may be based upon

⁵⁸ *Id.*

⁵⁹ Ruckman, *supra* n. 38, at 9.

⁶⁰ *Id.* at 9,10.

⁶¹ United States v. George Wilson, 32 U.S. 7 Pet 150, 160-161 (1833).

reformation or remorse or old age or anything other reason. “The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions.”⁶²

Finally, there is the belief that although existing outside of the judicial process, is it still a component of the judicial process, existing parallel to the judicial system. There is a belief that clemency has become a historical part of our legal culture, and that clemency is an extra-judicial component reserved for the Executive / Legislative branch to right a perceived judicial wrong.⁶⁴ The court in Herrera v. Collins, 506 U.S. 390 (1993)⁶⁵ offered that “(c)lemency is deeply rooted in our Anglo-American tradition of law, and is the historic remedy for preventing miscarriages of justice where judicial process has been exhausted.”⁶⁶ Through its history, clemency has existed on the fringe of the judicial system. The United States Supreme Court now believes that it is at minimum a quasi-parallel system of justice, designed to right any wrongs that slip through the normal judicial process. As such, its application should be consistent and uniform, as offered in the Kennedy Commission Report.

V. Has There Been a Decline in Clemency Post-Gregg?

There is widespread belief, although not substantiated with empirical evidence, that there has been a sharp decline in the granting of clemency in capital cases.⁶⁷ “The rate of clemency in capital cases is substantially lower in the period from 1977 to 2002

⁶² Ex Parte Garland, 71 U.S. 333, 380 (1866).

⁶³ See Table 1. Some states do have legislative restrictions that apply normally concerning the offense of the defendant or the eligibility of the defendant for clemency. The reasoning behind the decision, though, need not comport with any legislative intent.

⁶⁴ Ohio Adult Parole Authority, 523 U.S. at 278.

⁶⁵ Herrera, 506 U.S. at 412.

⁶⁶ *Id.*

⁶⁷ Daniel T. Kobil, *How to Grant Clemency in Unforgiving Times*, Kobil, 31 Cap. U. L. Rev. 219, 223 (2003).

than it was earlier in the twentieth century.”⁶⁸ Indeed, there is the appearance that as the number of death sentences has increased throughout the country, the number of defendants removed from death row by clemency has decreased.⁶⁹ What is needed for an adequate comparison is a base line from which to evaluate. And unfortunately, clemency data and statistics from the pre-Furman days are lacking.⁷⁰ It is believed, and has been reported and cited, that the rate of executive clemency in capital cases prior to 1976 was between 20 to 25%⁷¹, and as such, the baseline to be used in this topic will be a clemency rate between 20 and 25%.

Generally speaking, defining how to compare a 20 to 25% rate of clemency of capital cases would require a further refinement of how to determine what stage of the capital case to would clemency become applicable (that is, at what stage after the judicial process has taken its course would one start comparing data of clemency to determine whether there appears to be a reduction in its application)? Clemency will therefore be reviewed both in terms of clemencies per death sentence and clemencies per executions.

The first issued addressed in the Kennedy Commission Report is that there has been a decline in clemency post-Gregg. Table 2 (see below) provides the number of death sentences issued from 1994 through 2008, along with the corresponding data of the

⁶⁸ Rapaport, *supra* n. 28, at 353.

⁶⁹ Heise, *supra* n. 13, at 242.

⁷⁰ In conversations with Tracy L. Snell, Bureau of Justice Statistics statistician, data prior to 1970 for both death penalty cases and clemency actions is lacking and/or not precise. The Bureau of Justice Statistic’s data set contains information only from 1970 forward, and even that data is somewhat subject to scrutiny. The data set contains information as self reported by the correction institutions and other state agencies, and so classifications of certain actions may be somewhat misreported. For instance, a correctional institution may label a prisoner release generically as a “commutation” when in fact it could be some other type of administrative release. The Bureau of Justice Statistics does independently verify all clemency and commutation data, as it is still a rare function. However, caution must be given as the data is self reported by the institutions and agencies.

⁷¹ Bedau, *supra* n. 10, at 266.

number of death sentences removed, either by death or clemency or other reason. In reviewing the data, though, one must be cautious and evaluate the data only in the aggregate, as the data in one year may have its origin in another year and also that certain data is cumulative in nature and reflects actions from a previous year.⁷²

The only realistic way to view whether clemency has declined is to evaluate clemency action after all judicial processes and/or administrative processes⁷³ have run their course. As Table 2 illustrates, a death sentence can be addressed judicially and administratively prior to the need for a clemency evaluation. From 1977 through 2009, 7,197 death sentences were issued. Of that number, 311 inmates died, foregoing the need for clemency. Also, an additional 3,181 death sentences were removed or reversed, which would include reversals on appeal, sentence reductions based upon appeal, or any other type of judicial or administrative process to remove that death sentence. Of the 7,197 death sentences issued during that time period, 47.58% were removed prior to clemency and 6.08% of the inmates eligible for clemency received it. Nearly 54% of the sentences of death were reversed in some manner. The point of confusion at this stage is how would this compare or comport with the statistic of the 20 to 25% clemency rate of death sentences prior to Furman receiving some type of clemency. If the 20 to 25% clemency rate addresses clemency versus actualized death sentences, the state of affairs

⁷² For instance, in Year 2008, 111 death sentences were issued and 82 inmates were released from a death sentence. The 82 released in Year 2008 were not necessarily members of a subset of the 111 death sentences issued, although some could be. The 82 removals constitute action from Year 2008 and earlier.

⁷³ Administrative process could included decision by a state attorney not attempting to retry a case where a sentence was reduced, for example. It would not include any commutations.

now is that nearly 54% of the death sentences in this time period are reduced or eliminated in some way.

To definitively state that there has been a decline in clemency post-Gregg cannot be supported by the data. As will be expanded upon further, other forces may be at work which not only may exist to shift the result of the action from clemency to another category, but also that clemency may not only not be in decline, but may be accelerating albeit in a different format. At this juncture, it should be noted that conservatively 54% of the death sentences issued from 1977 through 2009 have been reversed to something less than a death sentence. For the past five years, all or nearly all of the death sentences that were issued had a corresponding death sentence removed. If there is no available pool or a very small pool of eligible recipients for clemency actions, the clemency action ratio certainly will diminish. “The number of pardons granted in any one year, for example, will be a function of the number of requests received.”⁷⁴ If there is not a sufficient pool of recipients, clemency as an extrajudicial component will certainly diminish at least in the actual numbers.

⁷⁴ Ruckman, *supra* n. 38, at 16.

Table 2: Statistics for Removal from a Death Sentence, 1977 - 2009⁷⁵

Year	Death Sentences	Removal From Death Sentences	Death of Inmate	Other Reason	Net Reduction = Death - Other	Available = Death Sentences - Net Reduction	Clemency Actions	Percentage Removed Prior Clemency	Percentage Clemency / Available
2009	108	97	27	69	96	12	1	89.81%	8.33%
2008	108	82	16	62	78	30	4	75.93%	13.33%
2007	109	86	16	59	75	34	11	78.90%	32.35%
2006	110	79	16	63	79	31	0	71.82%	0.00%
2005	122	133	21	109	130	-8	3	109.02%	-37.50%
2004	115	129	19	107	126	-11	3	112.17%	-27.27%
2003	142	266	6	87	93	49	173	187.32%	353.06%
2002	154	108	21	84	105	49	3	70.13%	6.12%
2001	153	108	17	88	105	48	3	70.59%	6.25%
2000	212	74	18	54	72	140	2	34.91%	1.43%
1999	271	112	19	88	107	164	5	41.33%	3.05%
1998	280	93	10	82	92	188	1	33.21%	0.53%
1997	253	89	8	80	88	165	1	35.18%	0.61%
1996	295	98	6	89	95	200	3	33.22%	1.50%
1995	308	105	9	96	105	203	0	34.09%	0.00%
1994	304	112	8	103	111	193	1	36.84%	0.52%
1993	277	108	11	96	107	170	1	38.99%	0.59%
1992	265	124	7	115	122	143	2	46.79%	1.40%
1991	265	116	7	99	106	159	10	43.77%	6.29%
1990	244	108	7	100	107	137	1	44.26%	0.73%
1989	251	102	6	95	101	150	1	40.64%	0.67%
1988	296	128	12	114	126	170	2	43.24%	1.18%
1987	299	90	11	78	89	210	1	30.10%	0.48%
1986	297	73	9	59	68	229	5	24.58%	2.18%
1985	273	84	4	80	84	189	0	30.77%	0.00%
1984	280	63	0	63	63	217	0	22.50%	0.00%
1983	252	108	0	107	107	145	1	42.86%	0.69%
1982	264	68	0	68	68	196	0	25.76%	0.00%
1981	228	77	0	76	76	152	1	33.77%	0.66%
1980	187	51	0	49	49	138	2	27.27%	1.45%
1979	159	54	0	52	52	107	2	33.96%	1.87%
1978	183	148	0	148	148	35	0	80.87%	0.00%
1977	133	151	0	151	151	-18	1	113.53%	-5.56%
Summary	7197	3424	311	2870	3181	4016	244	47.58%	6.08%

⁷⁵ Bureau of Justice Statistics Bulletins, 1977 to 2009 for all information other than Clemency Actions. Clemency Actions data from <http://www.deathpenaltyinfo.org> (accessed October 31, 2010). Also, the column “Other Reason” would include any reason for removal from a death sentence other than the death of the inmate, including judicial and/or administrative review, or reporting by the facility as a commutation, the overturning of a sentence, or any other action decreasing the penalty. This would include cases remanded back for re-sentencing, even if the death penalty were still an available option.

VI. Reasons Postulated for the Decline in Clemency

If there has been a decline in clemency, what reasons could there be, other than a statistical anomaly in the data post-Gregg, for the decline? The reasons below present a snapshot of an evolving environment for clemency actions:

1. There has been an increased utilization of the parole system to functionally step into the role of clemency.

One argument could be made that while there is a functioning parole system in place, with parole boards able to review any request for clemency, that there is not a need for expanded clemency actions. In addition, while the parole system may be a system not fully utilized, and perhaps on the way out, it still exists through many states. While time off for good behavior, also available in many states, is a viable option for many, for death row inmates it is not an option. As such, there is a belief that with a functioning parole system (and parole board), then there is less of a need for a clemency decisionmaking authority to become involved, as the parole board functions to examine and evaluate all the circumstances relevant to the release of an inmate. The parole board is empowered with the authority to investigate and decide parole issues, with the ultimate authority of conditionally releasing prisoners under authority granted to it. Unfortunately, in the instance of a death sentence, parole is normally not an option, and as such unavailable for the normal death row inmate. While a functioning parole may provide relief for a clemency granting authority, in this instance, where the parole board would not even become involved along any step of the process, it is not a legitimate reason for why clemency has decreased, if it indeed has.

2. There is a belief that a Governor would commit political suicide by commuting a death sentence.⁷⁶

It can be fair to state that a tough on crime approach, beginning with President Richard M. Nixon, has influenced the ability of clemency actions by an executive officer. The time period after Gregg has be characterized as a time period of tough on crime politics.⁷⁷ In addition, from the time period of 1960 to the 1980, crime rates increased to such an extent that anger and fear grew.⁷⁸ Increased crime rates, coupled with turbulent times, creates a situation where drastic actions may need to be taken. Fear created the anger to create the tough on crime politics. Beginning with President Nixon until today, there is a widespread belief that the tough on crime stance of politics has reduced the number of pardons issued.⁷⁹ No Governor or President ever wants to be viewed as soft on crime, or blamed if a pardoned defendant committed further crimes.⁸⁰ The reality of clemency is that it is a political decision that can have drastic consequences on the Governor the grants it, for better or worse.⁸¹ To the extreme, injudicious pardoning has led to the removal, either directly or indirectly of Governors.⁸² More generally, though, it has led to the early exits of politicians.⁸³ Tying this together with the mechanism, it has also been offered that “(t)o the extent that political factors influence clemency decision,

⁷⁶ Bedau, *supra* n. 10, at 268.

⁷⁷ Rachel E. Barkow, *The Ascent of the Administrative State and the Demise of Mercy*, 121 Harv. L. Rev., 1332, 1349 (2007-2008).

⁷⁸ Rapaport, *supra* n. 28, at 364. See n. 119 as referencing the Bureau of Justice Statistics, Department of Justice, Sourcebook of Criminal Justice 304, (Kathleen Maguire and Ann L. Pastore eds. 2000).

⁷⁹ Barkow, *supra* n. 77, at 1349.

⁸⁰ *Id.*

⁸¹ Daniel T. Kobil, *The Quality of Mercy Strained: Wresting the Pardoning Power from the King*, 69 Tex. L. Rev. 569, 607-611 (1990-1991), provides discrete and anecdotal evidence of the political cost of clemency injudicious granted or granted rightly by under the wrong circumstances.

⁸² *Id.* at 607.

⁸³ *Id.*

this influence should be greatest in states that vest governors with plenary clemency authority.”⁸⁴ Political ramifications could certainly influence a decline in clemency.

3. There is a widespread belief that death sentences are handed down now with in increased fairness post-Gregg.⁸⁵

Changes in the procedural processes of death penalty justice has had a dramatic, albeit differing, effect on the sentences issued. The collapse of mandatory death sentences has eliminated previously eligible offenses from mandatory death penalties.⁸⁶⁸⁷ For defendants previously required to be issued a death sentence if convicted of a mandatory death penalty offense, now the defendant would not need a commutation of a death sentence if issued something less than death. The need for clemency for a death sentence would be a function of the number of death sentences issued. The fewer death sentences, the lower the need for clemency for a death sentence.

The bifurcated trial system, a mechanism by which the guilt portion and sentencing portion of the trial are separated and the defendant allowed to offer mitigating circumstances to counter any aggravating factors offered in support of a death sentence, may also have lowered the number of death sentences issued, thereby reducing the clemency actions needed.⁸⁸⁸⁹ During the sentencing phase, with the defendant able to

⁸⁴ Heise, *supra* n. 13, at 242.

⁸⁵ Barkow, *supra* n. 77, at 1349.

⁸⁶ Woodson v. North Carolina, 428 U.S. 280 (1976). In Woodson, the Court ruled that the Eighth Amendment draws much of its meaning from societal standards, and as such, since common law has rejected mandatory sentences for offenses given the lack of discretion afforded the jury and that mandatory death penalties for particular offenses are unconstitutional when viewed under the Eighth and Fourteenth Amendment.

⁸⁷ Bedau, *supra* n. 10, at 268.

⁸⁸ *Id.*

⁸⁹ One component of reform of the death penalty judicial process instituted by Georgia was the bifurcated trial system. The guilt phase and sentencing phase were separated from one another. In Gregg v. Georgia, 428 U.S. 153 (1976), the Court held that a bifurcated trial system would be effective in eliminating any constitutional deficiencies of the sentencing in a death penalty case from being “arbitrary and capricious.” Briefly, a bifurcated trial allows a

provide extraordinary evidentiary material (mitigating circumstances), any appeal for clemency will be factored into the sentencing of the defendant.⁹⁰ And if after presentation of the mitigating factors the person is still sentenced to death, perhaps only the people most deserving of the death penalty are being sentenced to it. That is, the need for clemency prior to a bifurcated trial system may not exist as the mitigating factors offered to the jury are the same that could be offered to the clemency decisionmaking authority, and so cases less worthy of clemency are all that exist now.

In addition, more classes of crimes are excluded, both as a result of Supreme Court decisions⁹¹ and now as a result of many states now excluding whole classes of crimes that would otherwise be permissible.⁹² An exclusion from the death penalty would prevent a defendant from seeking a commutation for a death sentence and would therefore be reflected in the ratio of clemency for a death sentence. The death sentence, perhaps applicable prior to Gregg is no longer valid. Those convicted for the offense prior to Gregg and sentenced to death would not have been eligible for a death sentence, and therefore would skew the pool of eligible clemency recipients.

separate hearing for the sentencing phase, where a defendant can offer mitigating circumstances in support of a sentence less than death, without the fear of those circumstances influencing a guilt or innocence verdict.

⁹⁰ Lockett v. Ohio, 438 U.S. 586 (1978). Lockett is a case where a defendant was precluded from using mitigating factors other than those listed in the statute. The Court ruled that given that the death penalty is such a profound sentence, any relevant mitigating evidence must not be statutorily excluded from consideration.

⁹¹ Coker v. Georgia, 433 U.S. 584 (1977). The Court in Coker found that a death sentence for the rape of a woman was excessive and disproportionate to the punishment, and hence was a violation of the Eighth Amendment.

⁹² Rapaport, *supra* n. 28, at 362.

4. Legislative restrictions, in addition to eligibility requirements that exist in some states, may prevent some sentences from receiving consideration, and thus affect the clemency rate.

Some states prohibit pardons on certain crimes, such as drug offenses and sex offenses. Table 1 provides a survey of legislative restrictions on the criminal offense excluded for clemency and the eligibility requirements of the defendant to receive clemency. Colorado, for example, does not permit clemency for inmates who have committed an offense against peace officers.⁹³ When an entire class of crimes is precluded from clemency requests, clemency requests will obviously decrease. Following up with restrictions on crimes ineligible for clemency, certain inmates are precluded for seeking clemency unless certain conditions are met. As presented in Table 1, certain inmates are restricted from even requesting clemency for a variety of reasons in various states. For instance, Alabama requires that an inmate serve “at least one third or 10 years of his sentence, whichever is the lesser, ...(unless there is an) unanimous affirmative vote of the (Board of Pardons and Parole).”⁹⁴ Arizona, Connecticut, Delaware, Indiana, Michigan, New York, North Dakota, West Virginia, and Wisconsin all require some condition to be met for clemency to be available. Eligibility is not vested immediately with the inmates at the time of sentencing. If eligibility of clemency is based upon the crime and the defendant’s status, it is certainly plausible that there can be a reduction in clemency based upon legislative factors.

⁹³ *Criminal Justice Policy Foundation*, <http://www.cjpf.org/clemency/Colorado.html> (accessed on October 31, 2010).

⁹⁴ Section 15-22-28, Alabama Administrative Code.

5. The sentences imposed have gone through extraordinary judicial review such that they are the correct sentences.⁹⁵

Today, if a death sentence is found at the trial level, there is now usually a mandatory appeal with an appellate court, followed by an appeal to the state Supreme Court, followed by or concurrent with an appeal in the federal court system.⁹⁶ The level of review is such that the belief that clemency is needed has been weakened, given the level of judicial review afforded death penalty sentences.⁹⁷ Indeed, there are many layers of appeal the must be traveled through for a defendant to actually be executed.⁹⁸ Of the 7,197 death sentences handed down from 1977 through 2009, only 1,185 have been executed, or only 16% of the death row population has been executed.⁹⁹ From 1977 to 1999, nearly a third of those condemned to death had their sentences reduced or convictions reversed.¹⁰⁰ Fewer death sentences that meet judicial muster mean fewer sentences eligible for clemency actions.

⁹⁵ Rapaport, *supra* n. 28, at 362.

⁹⁶ One key component in Gregg was that a key aspect of the Georgia statute that was upheld was that the statute provided mandatory appellate review regarding the proportionality of the punishment to the crime. This should be distinguished from the requirement of an evaluation of the proportionality of the sentence by defendant, which was not upheld in Pulley v. Harris, 465 U.S. 37 (1984), where a proportional review of the sentencing by defendant was not found to be needed.

⁹⁷ Bedau, *supra* n. 10, at 268.

⁹⁸ Rapaport, *supra* n. 28, at 365.

⁹⁹ See Table 1. Also, please be advised that the death of inmates on death row for causes other than the execution would preclude them from being executed, slightly skewing this percentage.

¹⁰⁰ Elizabeth Rapaport, *Staying Alive: Executive Clemency, Equal Protection, and the Politics of Gender in Women's Capital Cases*, 4 Buff. Crim. L. Rev. 967, 977 (2001), quoting *A Broken System: Error Rates in Capital Cases, 1973-1995* by James S. Liebman, Jeffrey Fagan & Valerie West.

6. Judicially imposed limitations on who is eligible for the death penalty are further restricting the pool of people eligible for clemency, namely juveniles and mentally infirmed, and legislatively imposed limitations on who is eligible for clemency also decreases the pool of eligible clemency recipients.

In 2005, the Supreme Court in Roper v. Simmons¹⁰¹ struck down the death penalty for juveniles. Twenty two defendants had been executed for crimes committed as juveniles since 1976.¹⁰² In 2002, the Supreme Court held in Atkins v. Virginia¹⁰³ that it is unconstitutional to execute defendants with ‘mental retardation’.¹⁰⁴ In conjunction with the shrinking of the eligibility pool by the recent Supreme Court decisions prohibiting the execution of juveniles and mentally retarded people and judicial changes (bifurcated trials, elimination of mandatory death sentences, increased judicial and appellate scrutiny), fewer people need to seek clemency from death sentences. “The number of pardons granted in any one year, for example, will be a function of the number of requests received.”¹⁰⁵ As Table 2 illustrates, if 47% of the death row sentences are removed, the request for clemency for a reduction in a death sentence is reduced by that percentage.

¹⁰¹ Roper v. Simmons, 543 U.S. 551 (2005). In Roper, the court ruled that the death penalty is unconstitutional as a violation of the Eighth Amendment as the death penalty is reserved for the worst of the worst offenders, as dictated by the norms of society, and juveniles could never be reliably classified as such.

¹⁰² *Facts About the Death Penalty*, <http://www.deathpenaltyinfo.org/documents/FactSheet.pdf> (accessed on October 31, 2010).

¹⁰³ Atkins v. Virginia, 536 U.S. 304 (2002). In Atkins, the court addressed the issue of the eligibility of the mentally retarded to be sentenced to death and ruled that the death penalty is reserved for the worst of the worst, and as such, if the culpability of a mentally retarded person is in question, then that person would not be one of the worst of the worst, and therefore sentencing a mentally retarded person to death would be unconstitutional.

¹⁰⁴ *Facts About the Death Penalty*, <http://www.deathpenaltyinfo.org/documents/FactSheet.pdf> (accessed on October 31, 2010).

¹⁰⁵ Ruckman, *supra* n. 38, at 16.

7. There is a belief that if the ultimate goal of clemency is to affect the application of the death penalty, forces outside clemency are doing just that. Specifically,
 - a. An unknown combination of forces is affecting the application of the death penalty.

From 1930 to 1972, 4,995 people were executed (average of 119 people per year).¹⁰⁶ From 1977 to 2009, 1,185 people have been executed (average of 37 people per year).¹⁰⁷ Fewer people have been executed in the time period post-Gregg. The average number of executions has dropped by nearly 2/3 post-Gregg. Events happening outside the realm of the judicial process are occurring to reduce the number of executions taking place. As fewer people are eligible for execution, there will be fewer needs for commutations for a death sentence, affecting the rate at which it is prescribed.

- b. People may be losing faith in the death penalty, namely the process and the purported purpose.

From a high of 328 in 1994 to a low of 108 in 2009, death sentences are on the decline.¹⁰⁸ For past 11 years, the number of defendants sentenced to death has declined. Crime, however, has not returned to its pre-1960 rate.¹⁰⁹ The death penalty as a deterrent could be viewed by some as one not worthy of continuation, since it hasn't affected the crime rate as it should have. The tipping point may have been reached where many people are losing faith in ability of the death penalty to deter violent crime. Coupling this with the recent trend in death sentence exonerations from DNA may provide additional

¹⁰⁶ Tracy L. Snell, Bureau of Justice Statistics, *Capital Punishment, 2009 – Statistical Tables*.

¹⁰⁷ *Id.*

¹⁰⁸ *Facts About the Death Penalty*, <http://www.deathpenaltyinfo.org/documents/FactSheet.pdf> (accessed on October 31, 2010). Also, see Table 1.

¹⁰⁹ Rapaport, *supra* n. 28, at 365. “Crime rates declined in the 1990’s, but have not returned to 1960 levels” - See n. 119 as referencing the Bureau of Justice Statistics, Department of Justice, *Sourcebook of Criminal Justice* 304, (Kathleen Maguire and Ann L. Pastore eds. 2000).

support for a lessening in the reliability of the justice system to offer justice for crimes committed or not. Polls show that two-thirds of Americans – including 60 percent of those who are in favor of capital punishment – support a death penalty moratorium until the death penalty is imposed fairly.¹¹⁰ When a substantial majority of Americans support freezing the application of the death penalty until procedures are in place to adequately apply it fairly, that majority will have an impact on the sentencing of defendants to death, as that majority serves on juries, votes of for state attorneys that prosecute the law, votes for Governors, and perhaps in some way votes for State Board members that dispense clemency actions. The effect of the decrease in sentencing (and executions, which will be discussed shortly) should contain to some degree the cause that the American people are losing faith in the application of the death penalty at this point. While not easy to quantitatively apply what impact the sentiment of the American people would have on the application of the death penalty, it is a factor, nonetheless.

- c. States, while still sentencing people to death, are not executing people as quickly as would be needed to keep up.

Table 1 illustrates a great disparity amongst the states. Certain states seem to execute death sentences at a faster clip than other states. And some states are not, for all practical purposes, executing people anymore. From 1977 through 2009, Virginia has executed 105 prisoners of the 149 prisoners sentenced to death, for a rate of 70.47%.¹¹¹ Texas has executed 48.38%. California, on the other hand, has executed only 13 prisoners out of the 851 sentenced to death, for a rate of 1.5%. In the aggregate, only 16% of the

¹¹⁰ American Bar Association Death Penalty Moratorium Implementation Project, *Assessment of Capital Jurisdictions*, Frequently Asked Questions, 4 (ABA).

¹¹¹ See Table 1 for a breakdown of the statistics.

sentences of death have resulted in an execution from 1977 through 2009. Unless the states start to accelerate the pace of executions, the removal of inmates from death row will only occur through clemency, removal by some other judicial or administrative act, or by death of the inmate. Up through October, 2010, California has not executed an inmate since January, 2006. With a death row of over 800 inmates in California, there certainly must have been eligible candidates for death. However, for all practical purposes, death sentence executions are on hold or drastically curtailed. How this affects clemency is that it really skews the statistics of clemency applications. If a sentence of death does not generally mean that the person will be executed, is it really a death sentence? Or stated differently, inaction by the administrative (or executive) decisionmaking authority to not proceed with executions of death penalty sentences could be construed as de facto clemency, without the potential political baggage of making an unpopular decision, or merely foregoing the decision for the next administrative decisionmaking authority.

8. Summation of Reasoning

Weaving the last reasons together (increased fairness of sentences, increased judicial review of sentences, judicially imposed limitations on eligibility for death sentences, and increased utilization of other means for sentence modification) probably provides the best reasoning on whether or not there has been an increase or decrease in clemency. If there has been a decrease in clemency actions, the decrease is caused by the reduction of available cases that would normally qualify for clemency action. In reality, though, the environment has changed for the death penalty. From 1994 through 2009,

nearly 47.58% of the death sentence defendants were removed from death row (of which 311 died on death row).¹¹² An additional 6.08% received some type of commutation of the sentence.¹¹³ Nearly 54% of the people given a death sentence have had it reduced or removed in some way since the sentencing of the death penalty. The biggest factor in this is the shrinking of the available pool of inmates eligible for clemency, given the sizable “Other Reasons” for commutation of the sentence, with the judicial process accounting for the bulk of the sentences being overturned or remanded back for revised sentencing. Fewer sentences of death mean fewer opportunities for clemency.

Hidden in the statistics, though, is the unspoken situation where death sentences are issued, but not carried out. California has issued 851 death sentences, yet has only executed 13 people (a 1.5% rate)¹¹⁴, and has not executed anyone since 2006.¹¹⁵ Idaho has issued 40 death sentences, but only executed one (and commuted the sentence of another).¹¹⁶ Is this clemency by inaction? Is this commutation without the overhead of making a politically charged decision provides generally the same result, without the exposure of an unpopular decision?

Truly, the only way to effectively evaluate whether there has been a meaningful decline in commutations would be to evaluate the commutations (acts of clemency) against the actual executions that were held. The executions represent the final results of an unseen actualization of other factors not readily available in the statistics, namely the

¹¹² See Table 2. Data provide by the Bureau of Justice Statistics.

¹¹³ *Id.*

¹¹⁴ See Table 1. Data provided by the Bureau of Justice Statistics and <http://www.deathpenaltyinfo.org>, (accessed on October 30, 2010).

¹¹⁵ <http://www.deathpenaltyinfo.org>, (accessed on October 30, 2010).

¹¹⁶ *Id.*

removal of defendants from death row and the policy decisions by some states to not execute prisoners, implicitly commuting the death sentences to life imprisonment without the affirmation of a potentially political decision.

The merciful act of clemency, although integral to the prior state of affairs pre-Furman, may be disappearing through the other functions. Not executing prisoners, providing more and expanding judicial review, expanding the due process during the actual trial, and limiting the pool of eligible death penalty recipients all seem to be acting as a surrogate for clemency actions. As such, a decline in commutation, whether real or imaginary, may be being supplanted by other judicial processes, which by their nature, provide more procedural protection for the defendant, and policies that affect the implementation of the death penalty. Two aspects of these processes, increased judicial processes and de facto policies against executing prisoners, are that they not only lessen the need for clemency, as clemency has been afforded before the need arises, but also depress that statistics for clemency actions to an artificially low level. Table 3 provides a matrix for actions that have arisen in response to and post-Gregg that could be viewed as artificially skewing the impact of clemency, as the clemency process is being supplanted by other process, with some processes being judicially reviewable and some potentially reviewable for other constitutional issues.

Table 3: Impact of Factors As They Affect Clemency

Type	Action	Result	Impact	How Affects Clemency
Direct	Increased Judicial Review	Fewer Death Penalty Sentences Passing Judicial Scrutiny	Merciful Act of Commutation Being Applied Through Judicial Process / Errors In Justice Corrected In Judicial Branch	Less Need For Clemency To Be Applied / With Less Need For Clemency, Statistics Appear Low, Results May Be Unaffected
Direct	Increased Judicial Scrutiny, Shrinking Pool of Eligible Defendants	Mentally Handicapped and Juveniles Excluded	Merciful Act of Commutation Not Applicable to Excluded Defendants	Less Need For Clemency To Be Applied / With Less Need For Clemency, Statistics Appear Low, Results May Be Unaffected
Indirect	States Sentencing Defendants to Death, But Not Executing Them	Politically Charged Decisions Need Not Be Made to Spare Life	Merciful Act of Commutation Not Applicable / Unmerciful Act of Unfulfilled Punishment	De-Facto Clemency, Skewing Clemency Statistics

By serving to arrive at the end result of clemency, the direct actions of increased judicial review and increased selectivity of eligible candidates for the death penalty has impacted clemency by lessening the need for clemency to be applied for (as the previous actions have taken place to preclude the need for clemency) and skewing the statistics to show clemency happening less than it really (or effectively) is.

VII. A Comparison of the Mechanisms of Clemency

1. An Introduction to the Mechanisms of Clemency

The states normally structure the mechanism for deciding clemency by providing the authority to the Governor, a State Board, or some hybrid of the two to functionally manage the process.¹¹⁷ In breaking down how the state mechanisms are generally are set up, it can safely be stated that there are four various mechanisms for clemency, the Governor Only, the Governor With Binding Recommendation, the Governor With Non-

¹¹⁷ Heise, *supra* n. 13, at 252.

Binding Recommendation, and the State Board.¹¹⁸ All can be evaluated individually and in the aggregate (the Governor, Varying Degrees system), with the systems requiring Governor Involvement compared to the State Board System. Table 4, below, provides a breakdown by mechanism of decision making authority, along with an aggregation of the three mechanisms that include the Governor.

Table 4: Mechanism for Clemency Decisionmaking Authority, 1977-2009¹¹⁹

Mechanism for Clemency Decisionmaking	Number of States	Death Sentences	Number of Executions	Number of Clemencies	Clemencies Per Death Sentence	Clemencies Per Execution
Governor Only	13	2636	297	30	1.14%	10.10%
Governor With Binding Recommendation	7	2943	673	13	0.44%	1.93%
Governor With Non-Binding Recommendation	10	1189	147	196	16.48%	133.33%
State Board	5	432	68	8	1.85%	11.76%
Governor, Varying Degrees	30	6768	1117	236	3.49%	21.13%
State Board	5	432	68	8	1.85%	11.76%

Professor Heise, in Mercy By The Numbers: An Empirical Analysis of Clemency and Its Structure, develops quantitatively through a multivariate regression model a clemency decision making authority predictive tool and offers in his findings that “confirm the theoretical prediction that the manner in which states structure clemency decisionmaking authority influences clemency decisions.” (Inferential that a State Board grants clemency with a greater frequency than a Governor-based mechanism)¹²⁰ While Professor Heise’s model was generated for a predictive nature, historical data provides how the various mechanisms have functioned through today. When viewing the data of

¹¹⁸ See Table 1 for the listing by state of the generalized structure, along with the constitutional or statutory authority for its creation.

¹¹⁹ All data from Bureau of Justice Statistics except Clemency Data, which is from <http://www.deathpenaltyinfo.org>, (accessed October 31, 2010).

¹²⁰ Heise, *supra* n. 13, at 307. This article details more discrete factors than just structure of clemency procedures.

clemency in the aggregate, that is, the Governor, Varying Degrees versus the State Board, not only has the actual number of clemencies been greater under the Governor-based systems, but it is much greater when compared in proportion of death sentences and when compared to executions. Contrarily, common sense would have us believe that “(t)o the extent that political factors influence clemency decision, this influence should be greatest in states that vest governors with plenary clemency authority.”¹²¹ The assumption here is that there should be proportionally fewer clemencies actions in states where Governors are vested with clemency authority, but that does not seem to be the case. While legislative action, as previously discussed, may prevent and help insulate a decision making authority from making an unpopular decision, that restriction would be applicable to both the Governor, Varying Degrees mechanism and the State Board mechanism.

2. An Analytical Analysis of the Mechanism of Clemency

Professor Heise, as well as the Justice Kennedy Commission, believes that the mechanism of clemency affects the dispensing of clemency throughout the states.¹²² This concept can be evaluated, though, through inferential statistics to determine, within some degree of certainty, whether this conclusion is supported by the data.¹²³ In moving forward with an analysis to truly determine whether the structure or mechanism of the clemency process influences the efficacy of the process, the steps to take will be to:

¹²¹ *Id.*

¹²² Heise, *supra* n. 13, at 307 and Justice Kennedy Commission, *supra* n. 1, at 64.

¹²³ Inferential Statistics is the process of evaluating a dataset in order to draw conclusions, while acknowledging the randomness of variation inherent in the dataset. Please see Upton, G., Cook, I. (2008) Oxford Dictionary of Statistics.

- Identify the hypothesis (or conclusion) that needs to be subjected to the scrutiny.
- Define and collect the data set to evaluate, being certain that it truly represents the data needed to evaluate the hypothesis.
- Identify the proper inferential statistical model needed to evaluate the data set in relation to the identified hypothesis.
- Apply and interpret the inferential statistical model to the data set and hypothesis, respectively.
- Analyze the results of the application and identify any shortcomings, if any, of the results.

a. Identify the hypothesis

The Justice Kennedy Commission believes that the effectiveness and use of clemency is based upon the structure of the clemency process, where more pardons are granted when the decision makers are “insulated from politics.”¹²⁴ The hypothesis to test, therefore, is that there either is or is not a difference in the application of clemency based upon the structure of the clemency process. In this case, we will want to structure our hypothesis, which will be called the null hypothesis from now on, as follows:

$H_0 = \textit{There is no difference between the four structures in clemency}$

We will focus on attempting to disprove this hypothesis. As its counterpart, if we do determine that there is a difference between the four structures, the alternate hypothesis would be:

$H_1 = \textit{There is a difference between the four structures in clemency}$

¹²⁴ Justice Kennedy Commission, supra n. 4, at 70.

b. Define the data to evaluate

The four structures for clemency decisionmaking are detailed in Table 1 and provided in the aggregate in Table 4. Included within the Appendix is Table 5, which provides the complete listing of clemency actions by state by year, with corresponding data of the number of defendants on death row, the number of new death sentences for that year, and the number of defendants removed from death row for various reasons. While Table 4 is useful in providing an aggregate of similar information, the data provided cannot provide enough information to determine whether there is a statistical difference between the four structures. It is difficult to analyze only the aggregate of data and provide a reasonable answer with some certainty. Table 5, however, provides substantial data to make that determination.

In attempting to determine whether there is a statistical difference between the two structures, the relationship between the number of clemencies granted will be compared with the number of available defendants. Therefore, the probability of receiving clemency will be reviewed against the available pool of defendants for each state for each year from 1977 through 2009. The probability of clemency for that year for that particular state will be calculated as follows:

$$\text{Pr} = \frac{\text{Clemencies granted that year}}{(\text{Death row population for the year ending December 31,XXXX} + \text{New Death Sentences} - \text{Removals})}$$

, where the removals excludes the clemencies granted in this case. For instance, North Carolina had 215 inmates on death row as of December 31, 2001. In 2002, seven new

death sentences were added, fourteen defendants were removed for various reasons (including one for clemency), and one clemency was granted. Therefore, clemency in this state in this year was granted at a rate of:

$$.00478469 = \frac{1 \text{ clemency granted}}{(215 \text{ defendants} + 7 \text{ new death sentence} - (14 \text{ removals} - 1 \text{ clemency}))}$$

The rate at which clemency is granted was generated in this manner for all years and all states specifically in order to provide a way of comparing one structure to another. In particular, it provides a way of:

- Comparing disproportionate data. For instance, if one state has no eligible defendants for the death penalty, then no type of structure will affect the rate of clemency, because clemency is impossible in this situation.
- Providing proportionality to the data. If State X has 500 defendants eligible for the death penalty and provides clemency to ten, how would this compare to State Y that has only two defendants eligible for the death penalty, yet provides clemency to both defendants. In one instance, the raw number of the State X overwhelms the raw number for State Y (10 vs. 2). However, if evaluating the application of clemency, wouldn't the appropriate question be at what rate is clemency granted? State Y, after providing clemency to its two defendants, was unable to offer clemency to any other defendants, since none existed, and could never approach the raw level of State X. It did, though, given its particular circumstance, provide clemency at a rate of 100% versus the rate of State X's at 5%. Raw figures in this instance would be inappropriate to analyze, as a disproportion of the population (both in terms of number of states in each structure and number of death sentences offered by any state) would skew that which is under review, namely the effectiveness (rate) of clemency based upon the structure of the decision making authority.
- Quantitatively assessing the effectiveness of the particular clemency decision making authority in the state during that particular year. The rate, at which clemency is granted, in comparison with other states and years, can provide an effective tool in assessing the efficacy of the system in that

state for that particular year, as well as in the aggregate. For instance, if the rates of clemency for a similarly styled decision making authority state differ dramatically, one can assess deficiencies of a system based just upon a comparison of the data. Why the rate of clemencies for one state would differ, if both states have a similar structure for clemency and sufficient data to evaluate, can be evaluated to a high degree of certainty by applying an inferential statistical model to the data sets.

c. Identify the model

Descriptive inferential statistical analysis allows us to make statements about the underlying data with some degree of certainty.¹²⁵ And in this case, given the nature of the data, choosing the appropriated test is critical for the simple reason of desiring to be able to have some level of confidence that what is presented is applicable to the situation. The objective of this analysis is to determine whether there is a difference in the rate of clemency based upon the structure of clemency decision making authority. To do this, an analysis of the average rate at which clemency was granted as compared to the other structures would be the appropriate, and an appropriate model would be a Kruskal-Wallis Rank test.¹²⁶ In comparing the data sets across the various structures, the Kruskal-Wallis Rank test provides the ability to compare the data by ranking the values and comparing the data sets against one other.¹²⁷ The criteria necessary to use the Kruskal-Wallis Rank

¹²⁵ William Mendenhall, Robert J. Beaver, and Barbara M. Beaver, *Introduction to Probability & Statistics* 4 (13th ed. 2009).

¹²⁶ David Ray Anderson, Dennis J. Sweeney, Thomas Arthur Williams, Thomas A. Williams, *Statistics for Business and Economics* 842 (10th ed. 2009).

¹²⁷ *Id.* The Kruskal-Wallis Rank test is a nonparametric test that allows comparisons across multiple data sets, without any assumptions of the underlying distributions of the data sets. A related test, a One-Factor ANOVA test (Analysis of Variance test) allows a comparison of multiple data sets with various assumptions of normal distributions of the underlying data sets and equally sized data sets. The Kruskal-Wallis Rank test allows for a comparison without those constraints and ultimately is used to identify differences among three or more populations. In the case at hand, there are four populations being compared against one another without any assumption of the underlying normality of the populations. In fact, if the rates of clemencies were to be plotted out on a histogram, it would be demonstrated that the populations are not inherently normal at all. The Kruskal-Wallis Rank test forgoes the need for any assumption on the normality of the underlying distributions of any of the populations.

test is that 1) an ordinal scale is created, 2) there exist three or more groups to compare, 3) there is an independence of the groups, and 4) there is a simple randomness to the samples. An ordinal scale will be created further in the analysis, however we will be addressing more than three groups that are independent events from one other, both in actual state and year for the clemency rate, and in the case at hand, a full population is analyzed. To begin with, the formula for the Kruskal-Wallis Rank test is:¹²⁸

$$K = \frac{12}{N(N+1)} \sum_{i=1}^g \frac{(R_i)^2}{n_i} - 3(N+1)$$

Where

g = Number of Groups (Four in this case)

N = Total number of ranks observed

n_i = Total number of observed ranks within that group

R_i = The summation of the ranks from a particular group

The model works by comparing the ranks of the rates of clemency amongst the various structures. A test statistic, K , is generated and compared against a Chi-square statistic with $k-1$ (number of groups – 1) degrees of freedom.¹²⁹ If the test statistic is smaller than the Chi-square, then the null hypothesis cannot be rejected (that is, it cannot be proven false).¹³⁰ In this situation, given the four separate structures for clemency, and seeking a confidence interval of 95%, the following statistic derived in Microsoft Excel would be $\text{CHIINV}(.05, 4-1) = 7.81472776394987$.¹³¹

¹²⁸ D. H. Stamatis, *Six Sigma and Beyond: Statistics and Probability* 120 (Vol. III 2003).

¹²⁹ *Id.* at 119.

¹³⁰ As a note,

¹³¹ The statistic derived here by Microsoft Excel is the inverse of the one-tailed probability of the chi-squared distribution.

Similar to what is to be analyzed, this model is designed to evaluate the following hypotheses, based upon the data provided:

$$H_0 = \textit{The samples come from identical populations}$$

, and as the counterpart to the null hypothesis:

$$H_1 = \textit{The samples come from different populations}$$

In this instance, if the samples come from identical populations, then one population is no different from the other. That is, there is no difference in the rate of clemency based upon the structure, and therefore, there is no difference amongst the various clemency decision making structures.

d. Apply and interpret the model to the data set

To begin with the application of the model, a ranking system needed to be generated and applied across the data set. Presently, the data will be separated into four distinct groups and analyzed collectively. Included within the Appendix is Table 6, which provides the data for the probability of grants of clemency, separated by state, system, and year, summarized from Table 5. In order to apply the model, a ranking system was created to uniformly represent the scale of the probability of clemency. For instance, suppose a data set contained six sample points, categorized by group such as below:

	Group 1	Group 2	Group 3
Sample 1	1		
Sample 2		2	
Sample 3			3
Sample 4	4		
Sample 5		5	
Sample 6			6

The first step in applying the model would be to create a uniform ranking system by which to judge data. A sample, uniform ranking system is below:

	Group 1	Group 2	Group 3	Rank
Sample 1	1			1
Sample 2		2		2
Sample 3			3	3
Sample 4	4			4
Sample 5		5		5
Sample 6			6	6

A uniform, ordinal ranking system is now generated by which to analyze the data.¹³²

Now as a check to the ranking system, an evaluation of the summation of the data points as compared to the ranking will be conducted.

	Group 1	Group 2	Group 3	Rank
Sample 1	1			1
Sample 2		2		2
Sample 3			3	3
Sample 4	4			4
Sample 5		5		5
Sample 6			6	6
Summation	5	7	9	

A quick check of the ranking system as applied to the data can be confirmed with the following function:

$$\sum_{i=1}^g g_i = \frac{N(N+1)}{2}$$

As applied, $(5 + 7 + 9) = (6 * (6 + 1))/2 = 21$ (in this example, there are six ranks). The uniformity of the ranking system is valid.

¹³² Please keep in mind that this example makes no assumptions about the underlying distribution of the data sets, and as such, will not be addressed.

A quick evaluation of the ranking system for the data presented in Table 6 in the Appendix can now be performed. Below is a summation of the data for the four clemency decision structures.¹³³

Table 7: Summation of Counts and Ranks for Clemency Probability, 1977-2009

Method	Count of the Ranks	Summation of the Ranks
Governor Only	459	251712.5
Governor With Binding Recommendation	229	127129.5
Governor With Non-Binding Recommendation	266	149642
State Board	153	84794
Count of Ranks, Sum	1107	
Summation of the Ranks, Sum		613278

As applied, $(251,712.5 + 127,129.5 + 149,642 + 84,794) = (1,107 * (1,107 + 1))/2 = 613,278$ (in this example, there are 1,107 ranks). The uniformity of the ranking system is valid.

Since a uniform ranking system has been generated, the data can now be analyzed to generate the statistic by which to compare the data. The formula for the Kruskal-Wallis Rank test is as follows:

$$K = \frac{12}{N(N+1)} \sum_{i=1}^g \frac{(R_i)^2}{n_i} - 3(N+1)$$

As applied,

$$K = \frac{12}{1,107(1,107+1)} * \left(\left(\frac{251,712.5^2}{459} \right) + \left(\frac{127,129.5^2}{229} \right) + \left(\frac{149,642^2}{266} \right) + \left(\frac{84,794^2}{153} \right) \right) - 3 * (1,107 + 1)$$

¹³³ Complete details of the probabilities of clemency, along with the value of the rankings, can be reviewed in Table 6 in the Appendix.

, with $K = .3350597$. Since $.3350597 < 7.81472776394987$, the null hypothesis cannot be rejected, and therefore it cannot be disproven that the probability of clemency varies by the structure of the decision making structure. That is, the distribution of the probability of clemency for a State Board structure cannot be differentiated amongst the others. There is no difference between the four clemency decision making structures based upon the probability of receiving clemency.

One aspect of the Kruskal-Wallis Rank test is that a correction is normally required to the test statistic if there are ties within the ranking system.¹³⁴ A low number of ties will be of an inconsequential value and not affect the efficacy of the test statistic. In the case at hand, given the low probabilities of clement acts occurring, ties in the ranks are great. As such, a correction to the test statistic will be performed. The reasoning behind the need for the correction in the statistic is that an inordinate number of ties in the ordinal ranking of the data will yield a more conservative result to be used in rejecting the null hypothesis. The formula for the corrected test statistic is as follows:¹³⁵

$$K_{Corrected} = \frac{K}{C_K}$$

Where

K = The uncorrected test statistic

C_K = The correcting statistic

The correcting statistic can be computed as follows:

$$C_K = 1 - \frac{\sum(T^3 - T)}{N^3 - N}$$

¹³⁴ Richard G. Lomax, *Statistical Concepts, A Second Course for Education and the Behavioral Sciences* 101 (Vol. II 2001).

¹³⁵ *Id.*

Where

$T = \text{Value of the Ties}$

$N = \text{Total number of ranks observed}$

As applied, there are three separate ties that exist in the data, with 1057, 2, and 2 data points repeated throughout the data set (the actual ranks that repeat are listed below).

As applied, the correct test statistic is:

$$C_K = 1 - \frac{(1057^3 - 1057) + (2^3 - 2) + (2^3 - 2)}{1107^3 - 1107}$$

Ties Value	Number	Value of T^3	Value of $(T^3 - T)$
529	1,057	1,180,932,193	1,180,931,136
1082.5	2	8	6
1087.5	2	8	6
		Summation	1,180,931,148

$$C_K = 1 - \frac{1,180,931,148}{1,356,570,936}$$

$$C_K = 1 - .8705$$

$$C_K = .1295$$

$$K_{Corrected} = \frac{K}{C_K}$$

$$K_{Corrected} = \frac{.3350597}{.1295}$$

$$K_{Corrected} = 2.588$$

e. Analyze the results

With $K_{Corrected} = 2.588$, and since $2.588 < 7.81472776394987$, the null hypothesis cannot be rejected, and therefore it cannot be disproven that the probability of

clemency varies by the structure of the decision making structure. That is, the distribution of the probability of clemency for a State Board structure cannot be differentiated amongst the others. There is no difference between the four clemency decision making structures based upon the probability of receiving clemency.

Statistically, the application of clemency seems uniform over a similar distribution over the four various clemency decision making structures, and ultimately the method of clemency decision making is not affected by the structure.

3. Summation

The Kennedy Commission Report has offered that at the end of the 20th Century, there has been “identifiable movements in both law and politics (that) took their toll not only on the pardon power, but also on the notion of taking a second look at sentences.”¹³⁶ As such, the state of the pardoning in the United States has diminished remarkably, with support for this proposition in the reality that “the vitality of the pardon power in a particular state jurisdiction varies depending upon the extent to which its decision-maker is insulated from politics.”¹³⁷ Implicit in this statement is that the position which is less insulated from politics would not use the clemency power as much as the position more insulated. The data, however, provides that the Governor, Varying Degrees mechanism from 1977 through 2009 provided that greatest number of clemencies, the greatest rate of clemencies to death sentences, and the greatest rate of clemencies compared to executions. Even ignoring the de facto moratorium (or slow down) of executions in some

¹³⁶ *Id.* at 68.

¹³⁷ *Id.* at 70.

states, which could be construed as a type of commutation, the premise offered by the Kennedy Commission Report that a decision making authority insulated from political forces (such as a State Board) is best for increasing clemency actions is not supported by the historical data from 1977 to 2009.

VIII. Conclusion

The issues of whether there has been a decline in clemency post-Gregg and whether the structure of the mechanism affects this are issues, absent discrete data pre-Furman, are hard to quantitatively resolve. Data from 1977 through 2009 provides that the Governor, Varying Degrees of decision making authority provided not only the most clemencies actions, but did so at a higher rate versus death sentences and executions as compared with the State Board. The Kennedy Commission Report assumption that a mechanism with a decreased political influence would perform better has not been borne through the data.

In evaluating whether clemency actions have decreased post-Gregg, while not being able to absolutely demonstrate that this is not the case, the changing environment post-Gregg has changed not only the conditions of when clemency is needed, but also the raw numbers of eligible recipients. Prior to the beginning of a capital trial post-Gregg, judicial action and legislative action has shrunk the pool of eligible recipients of the death penalty. Not only are juveniles and the mentally retarded prevented from receiving a death penalty, crimes once eligible for a death penalty are no longer available. The pool of crimes available for the death penalty and the pool of apparent recipients has shrunk. Less eligible recipients and fewer eligible crimes means fewer available opportunities for

clemency for a death sentence. “The number of pardons granted in any one year, for example, will be a function of the number of requests received.”¹³⁸

Prior to the conclusion of a bifurcated trial, a defendant has the opportunity to present mitigating evidence: evidence normally reserved for a clemency hearing is now available to a jury for consideration in sentencing. The impact of this would be that fewer people would receive the death penalty than before, and those people eligible for a merciful act will have received it through the sentencing proceedings. Post trial, increased mandatory judicial review, both at the appellate and the state Supreme Court level not to mention the United States Supreme Court, serves as a function to correct any errors in justice, that may have been the cause of an unjust conviction. From 1977 through 2009, of the 7,197 death sentences handed down, 3,181 were removed for some reason other than clemency or death of the inmate (over 47%).¹³⁹ In addition, as reflected in Table 1, for the time period of 1977 through 2009, commutations in some fashion are granted in a ratio of 20.59% for every execution. So not only have the commutations remained within the band of 20 to 25% as was estimated prior to Furman, but the pool of available recipients is decreasing. Indeed, the average number per year of executions pre-Furman to post-Gregg has plummeted, from an average of 119 to 37 per year.¹⁴⁰ Viewed in conjunction with the de facto moratorium (which could be construed as a clement act) in some states of executions, the number of executions continues to fall.

¹³⁸ Ruckman, *supra* n. 38, at 16.

¹³⁹ See Table 2.

¹⁴⁰ Snell, *supra* at n. 106.

The issue, therefore, of whether there has been a decline in clemency from the pre-

Furman days can be answered as follow:

A changing legislative condition, coupled with increase judicial review of death penalty cases, has shrunk the available pool of death penalty eligible recipients. Nevertheless, clemency, as compared against executions, is still hovering within the 20 to 25% range postulated previously. However, the true story is that other actions, including clemency, are happening earlier in the process now, without an increased need for clemency at the end of the process. Defendants sentenced to death are being afforded more opportunities for clemency and clemency-type actions than available pre-Furman and so clemency is not on the decline. On the contrary, whether called clemency or not, defendants are being spared from sentences of death at a greater rate now than ever.

IX. Appendix

Appendix

Table I - Summary of Clemency Authority, Clemency Actions, Executions, By State, from 1977 to 2009

State	Authority	General	Death Penalty State?	Style	Restrictions, If Any	Death Sentences post-Gregg	Executions	Commutations	Death Sentences to Executions Ratio	Commutations to Executions Ratio
Alabama	Ala. Const. art. V, § 124 Ala. Code § 15-22-37	• Governor has the authority to grant reprieves and commutations to persons subject to death penalty. • Board of Pardons and Paroles has authority to grant pardons.	Yes	Governor Alone	Section 15-22-28 of the Alabama Administrative Code states, "The board shall not grant a parole to any prisoner who has not served at least one third or 10 years of his sentence, whichever is the lesser, except by unanimous affirmative vote of the board."	430	44	1	10.23%	2.27%
Alaska	Alaska Const. art. III, § 21 Alaska Stat. § 33.20.070	Governor has authority to grant pardons, commutations, and reprieves and to suspend and remit fines and forfeitures.	No	Governor Alone		0	0	0	N/A	N/A
Arizona	Ariz. Const. art. V, § 5 Ariz. Rev. Stat. § 31-401	Governor has the authority to grant commutations, reprieves, and pardons, but only upon recommendation of the Board of Executive Clemency.	Yes	Governor With Binding Recommendation	Only applicants who have served two years from their sentence-begin date and are not within one year of their parole eligibility or mandatory release will be considered. Applicants who are denied clemency are eligible to repetition two years after the final action by the Board.	281	23	0	8.19%	0.00%
Arkansas	Ark. Const. art. VI, § 18 Ark. Code Ann. § 16-93-204	Governor has the authority to grant reprieves, commutations, and pardons except in cases of impeachment and treason.	Yes	Governor Alone		116	27	1	23.28%	3.70%
California	Cal.Const. art. V, § 8 Pen. Code, § 4800 et seq.	Governor has the authority to grant reprieves, pardons, and commutations after sentence.	Yes	Governor Alone		851	13	0	1.53%	0.00%
Colorado	Colo. Const. art. IV, § 7 Colo. Rev. Stat. § 16-17-101	Governor has full and absolute discretion in clemency matters. He may grant unconditional pardons, commutations, and reprieves.	Yes	Governor Alone	Inmates who have committed a violent crime against a peace officer are not eligible (i.e. assault on a peace officer, riot, etc.).	14	1	0	7.14%	0.00%
Connecticut	Conn. Const. art. IV, §13 Conn. Gen. Stat. § 54-124a	• Governor has the authority to grant reprieves. • Board of Pardons (appointed by Governor) has the authority to grant pardons and commute sentences.	Yes	State Board	Any inmate petitioner serving a minimum of eight years or more may apply to the Board of Pardons only after 4 years of his/her minimum sentence have been served.	14	1	0	7.14%	0.00%
Delaware	Del. Const. art. VII, § 1 Del. Code Ann. tit. 11 § 4301 et seq.	Governor has the authority to grant pardons, reprieves, and commutations but only upon recommendation in writing of Board of Pardons after a full hearing.	Yes	Governor With Binding Recommendation	No application for commutation of sentence which includes a first degree murder conviction shall be accepted for 33 months or reheard for 36 months from the date of any decision on a prior application.	44	14	0	31.82%	0.00%
Florida	Fla. Const. art. IV, § 8 Fla. Stat. § 940	Governor has the authority to grant reprieves not exceeding 60 days, and, with the approval of two members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines.	Yes	Governor With Binding Recommendation		876	68	6	7.76%	8.82%
Georgia	Ga. Const. art. IV, § II Ga. Code Ann. § 42-9-42	• Board of Pardons and Paroles (appointed by Gov.) has the authority to grant pardons, reprieves and commutations after conviction and to remove all civil and political disabilities. • Governor has the authority to temporarily suspend sentences in cases of capital punishment and treason.	Yes	State Board		230	46	7	20.00%	15.22%
Hawaii	Haw. Const. art. V, § 5	Governor has the authority to grant reprieves, commutations, and pardons after conviction.	No	Governor Alone		0	0	0	N/A	N/A
Idaho	Idaho Const. art. IV, § 7 Idaho Code Ann. § 20-210, 20-240	Board of Pardons (appointed by Governor) has authority, as provided by statute, to grant commutations and pardons.	Yes	Governor With Non-Binding Recommendation		40	1	1	2.50%	100.00%
Illinois	Ill. Const. art. V, § 12 730 Ill. Comp. Stat. 5/3-3-1	Governor has the authority to grant pardons, commutations and reprieves.	Yes	Governor With Non-Binding Recommendation		303	12	172	3.96%	1433.33%
Indiana	Ind. Const. art. 5, § 17 Ind. Code § 11-9-2-1	Governor has the authority to grant commutations, pardons, and reprieves, but may not grant pardons without consent of the parole board.	Yes	Governor With Non-Binding Recommendation	Petitions of offenders sentenced under "New Code" (IC 35-50 (Indiana Administrative Code)) and who have been sentenced to a period of time in excess of ten years, may be considered after the offender has served one-third of the sentence or at least 20 years, whichever comes first. Petitions of offenders serving life sentences ("Old Code") may be considered after the offender has served ten years.	95	20	3	21.05%	15.00%
Iowa	Iowa Const. art. IV, § 16 Iowa Code §§ 914.1-914.7	Governor has the authority to grant pardons, commutations, and reprieves, remit fines and forfeitures, and grant certificates restoring citizenship rights.	No	Governor Alone		0	0	0	N/A	N/A
Kansas	Kan. Const. art. I, § 7 Kan. Stat. Ann. § 22-3701 et seq.	• Governor has the authority to grant pardons, commutations, reprieves in capital cases, and impose restrictions on clemency grants. • The Governor is required to seek the advice of the Parole Board before acting but is not bound to follow it.	Yes	Governor With Non-Binding Recommendation		11	0	0	N/A	N/A
Kentucky	Ky. Const. § 77, § 150 Ky. Rev. Stat. Ann. § 439.450	Governor has the authority to grant pardons (full and conditional), commutations, and reprieves and to remit fines and forfeitures.	Yes	Governor Alone		82	3	2	3.66%	66.67%
Louisiana	La. Const. art. IV § 5 La. Rev. Stat. Ann. § 15:572.1	• Governor has complete authority to grant reprieves. • Governor must have recommendation of the Board of Pardons (appointed by Gov.) to grant pardons or commute sentences.	Yes	Governor With Binding Recommendation		153	27	2	17.65%	7.41%
Maine	Me. Const. art. V, pt. 1, § 11 Me. Rev. Stat. Ann. tit. 15, § 2129 & tit. 34-A, § 5210(4)	• Governor has authority to pardon except in cases of impeachment, subject to regulation relative to manner of applying. • Pardons Advisory Board appointed by Gov. • Parole Board authorized, at request of Gov. , to investigate and hold hearings.	No	Governor With Non-Binding Recommendation		0	0	0	N/A	N/A
Maryland	Md. Const. art. II, § 20 Md. Code Ann. § 7-202, & Md. Regs. Code tit. 12, § 08.01.16	• Governor has the authority to grant reprieves, pardons, remit fines and forfeitures and to commute sentences. • Parole Commission investigates and advises on pardon applications on request of Gov.	Yes	Governor With Non-Binding Recommendation		53	5	2	9.43%	40.00%

Appendix

Table I - Summary of Clemency Authority, Clemency Actions, Executions, By State, from 1977 to 2009

Massachusetts	Mass. Const. pt. 2, ch. II, sec. I, art. VIII Mass. Gen. Laws ch. 127, § 152	<ul style="list-style-type: none">• Governor may not grant pardon w/o advice and consent of the Governor’s Council.• General Court has authority to prescribe terms and conditions upon which pardons may be granted in felony cases.	No	Governor With Binding Recommendation		0	0	0	N/A	N/A
Michigan	Mich. Const. art. 5, § 14 Mich. Comp. Laws § 791.243	<ul style="list-style-type: none">• Governor has the authority to grant pardons, commutations, and reprieves.• Gov. required to obtain recommendation of Parole Board prior to grant, but is not bound by its decision.	No	Governor With Binding Recommendation	According to Administrative Rule 791.7760(2), the Parole Board can accept an inmate's application once every two years.	0	0	0	N/A	N/A
Minnesota	Minn. Const. art. V, § 7 Minn. Stat. § 638	<ul style="list-style-type: none">• The Board of Pardons, made up of the governor, the attorney general, and the chief justice of the supreme court, has power to grant reprieves and pardons.• Director of Correction conducts investigations and makes recommendations to the Board.	No	State Board		0	0	0	N/A	N/A
Mississippi	Miss. Const. art. 5, § 124 Miss. Code Ann. § 47-7-5	Governor has authority to grant pardons, reprieves, remit fines and stay forfeitures and to commute sentences.	Yes	Governor Alone		165	10	0	6.06%	0.00%
Missouri	Mo. Const. art. IV, § 7 Mo. Rev. Stat. § 217.800	<ul style="list-style-type: none">• Governor has full authority to grant pardons, commutations, and reprieves.• Board of Probation and Parole (appointed by Gov.) required to review applications and make non-binding recommendations.	Yes	Governor With Non-Binding Recommendation		193	67	2	34.72%	2.99%
Montana	Mont. Const. art. VI, § 12 Mont. Code Ann. § 46-23-104	Governor may grant pardon only upon recommendation of Board of Pardons and Parole (appointed by Gov.), except in capital cases.	Yes	Governor With Non-Binding Recommendation		10	3	1	30.00%	33.33%
Nebraska	Neb. Const. art. IV, § 13 Neb. Rev. Stat. §§ 83-1,126 et seq.	Board of Pardons (comprised of Governor, Secretary of State, and Attorney General) has the authority to grant respites, reprieves, pardons and commutations and to remit fines and forfeitures, except in cases of treason and impeachment.	Yes	State Board		27	3	0	11.11%	0.00%
Nevada	Nev. Const. art. 5, §§ 13, 14 Nev. Rev. Stat. § 213.010	State Board of Pardons (comprised of the governor, justices of the supreme court, and the attorney general) has the authority to remit fines and forfeitures, commute punishment, grant pardons, and restore citizenship rights.	Yes	State Board		142	12	1	8.45%	8.33%
New Hampshire	N.H. Const. pt. 2, art. 52 N.H. Rev. Stat. Ann. §§ 4:21 to 4:28	Pardon power is vested in the governor, “by and with the advice of the [Executive] Council,” an elected body that advises the governor generally in carrying out his duties.	Yes	Governor With Non-Binding Recommendation		1	0	0	N/A	N/A
New Jersey	N.J. Const. art 5, § 2 N.J. Stat. Ann. § 2A:167-5	Governor has the authority to remit or suspend fines and forfeitures, to commute capital punishment, and to grant pardons and reprieves.	No	Governor Alone		57	0	8	0.00%	Undefined
New Mexico	N.M. Const. art. V, § 6 N.M. Stat. Ann. § 31-13-1©	Governor has complete authority to grant pardons and reprieves, and to commute sentences.	No	Governor Alone		14	1	5	7.14%	500.00%
New York	N.Y. Const. art. 4, § 4 N.Y. Exec. Law § 259	Governor has the authority to grant commutations, reprieves, and pardons.	No	Governor Alone	The inmate has served at least one-half of his or her minimum period of imprisonment and the inmate is not eligible for release on parole	8	0	0	N/A	N/A
North Carolina	N.C. Const. art. III, § 5 N.C. Gen. Stat. § 143B-266	<ul style="list-style-type: none">• Governor has unlimited authority to grant pardons, commutations, and reprieves.• Post Release Supervision and Parole Commission has authority to assist governor in investigating applications.	Yes	Governor Alone		439	43	5	9.79%	11.63%
North Dakota	N.D. Const. art. 5, § 7 N.D. Cent. Code § 12-55.1-02	Pardon power vested in Governor. Gov. may appoint a pardon advisory board (comprised of attorney general, two members of parole board, and two citizens).	No	Governor Alone	Inmates who are eligible for parole are not eligible to apply for a commutation of sentence.	0	0	0	N/A	N/A
Ohio	Ohio Const. art. III, § 11 Ohio Rev. Code Ann. § 2967.07	Governor has the authority to grant pardons, reprieves, and commutations	Yes	Governor With Non-Binding Recommendation		314	33	11	10.51%	33.33%
Oklahoma	Okla. Const. art. VI, § 10 Okla. Stat. tit. 57, § 332	Governor, upon recommendation of the Board, has the authority to grant pardons, paroles, and commutations. In the absence of Board approval, he may grant reprieves or leaves of absence under 60 days.	Yes	Governor With Binding Recommendation	All inmates are eligible to apply. Inmates become eligible to apply for commutation of sentence at the same time they become eligible for parole.	307	91	3	29.64%	3.30%
Oregon	Or. Const. art. V, § 14 Or. Rev. Stat. § 144.649	Governor has the authority to grant pardons, reprieves, and commutations. He also has power to remit all forfeitures and penalties.	Yes	Governor Alone		69	2	0	2.90%	0.00%
Pennsylvania	Pa. Const. art. 4, § 9 37 Pa. Code § 81.221	Governor has the authority to remit fines and forfeitures, grant pardons, reprieves and commutations, but only with the affirmative recommendation of majority of the Board of Pardons.	Yes	Governor With Binding Recommendation		358	3	0	0.84%	0.00%
Rhode Island	R.I. Const. art. 9, § 13 R.I. Gen. Laws § 13-10-1	Governor, with the advice and consent of the senate, has the authority to grant pardons and to exercise all other state clemency powers.	No	Governor With Binding Recommendation		0	0	0	N/A	N/A
South Carolina	S.C. Const. art. IV, § 14 S.C. Code Ann. § 24-21-920	Governor has authority to grant reprieves and commute death sentences, but all other clemency authority vested by statute in Probation, Parole, and Pardon Board, which is comprised of 7 members appointed by the Gov.	Yes	Governor Alone	All inmates are eligible to apply for a pardon anytime before becoming parole eligible.	192	42	0	21.88%	0.00%

Appendix

Table I - Summary of Clemency Authority, Clemency Actions, Executions, By State, from 1977 to 2009

[illegible]

Appendix

Table 5 - Summary of Actions, By State

State	Year	Death Row Population, December 31	Death Sentences	Removed From Death Row	Executed	Clemencies
Alabama	1977	4	15	0	0	0
Alabama	1978	21	20	0	0	0
Alabama	1979	41	10	8	0	0
Alabama	1980	43	8	4	0	0
Alabama	1981	2	14	0	0	0
Alabama	1982	16	20	0	0	0
Alabama	1983	38	13	1	1	0
Alabama	1984	49	9	0	0	0
Alabama	1985	68	13	2	0	0
Alabama	1986	79	8	3	1	0
Alabama	1987	84	14	7	1	0
Alabama	1988	89	13	5	0	0
Alabama	1989	96	20	6	4	0
Alabama	1990	106	14	2	1	0
Alabama	1991	117	6	4	0	0
Alabama	1992	118	15	7	2	0
Alabama	1993	124	8	12	0	0
Alabama	1994	120	24	9	0	0
Alabama	1995	136	17	8	2	0
Alabama	1996	143	19	10	1	0
Alabama	1997	152	15	5	3	0
Alabama	1998	159	25	5	1	0
Alabama	1999	178	12	8	2	1
Alabama	2000	183	11	5	4	0
Alabama	2001	185	7	6	0	0
Alabama	2002	186	11	4	2	0
Alabama	2003	191	6	2	3	0
Alabama	2004	193	7	5	2	0
Alabama	2005	193	12	12	4	0
Alabama	2006	190	13	9	1	0
Alabama	2007	194	13	5	3	0
Alabama	2008	199	9	3	0	0
Alabama	2009	205	9	8	6	0
Arkansas	1977	6	2	1	0	0
Arkansas	1978	7	4	0	0	0
Arkansas	1979	11	2	1	0	0
Arkansas	1980	12	3	0	0	0
Arkansas	1981	15	12	4	0	0
Arkansas	1982	23	3	2	0	0
Arkansas	1983	23	1	2	0	0
Arkansas	1984	22	1	0	0	0
Arkansas	1985	23	6	1	0	0
Arkansas	1986	26	4	4	0	0
Arkansas	1987	26	4	2	0	0
Arkansas	1988	26	3	2	0	0
Arkansas	1989	27	6	0	0	0
Arkansas	1990	33	7	5	2	0
Arkansas	1991	33	2	1	0	0
Arkansas	1992	34	4	4	2	0
Arkansas	1993	32	7	6	0	0
Arkansas	1994	33	8	0	5	0
Arkansas	1995	37	4	1	2	0
Arkansas	1996	38	5	2	1	0
Arkansas	1997	38	5	1	4	0
Arkansas	1998	38	4	1	1	0
Arkansas	1999	40	5	1	4	1
Arkansas	2000	40	3	1	2	0
Arkansas	2001	40	2	1	1	0
Arkansas	2002	40	0	0	0	0
Arkansas	2003	42	0	1	1	0
Arkansas	2004	40	2	2	1	0
Arkansas	2005	38	2	1	1	0
Arkansas	2006	38	0	2	0	0
Arkansas	2007	36	2	0	0	0

Appendix

Table 5 - Summary of Actions, By State

Arkansas	2008	38	3	0	0	0
Arkansas	2009	41	0	1	0	0
California	1977	68	0	14	0	0
California	1978	2	7	0	0	0
California	1979	9	20	4	0	0
California	1980	25	24	5	0	0
California	1981	44	40	1	0	0
California	1982	83	39	2	0	0
California	1983	120	33	4	0	0
California	1984	149	27	4	0	0
California	1985	167	16	13	0	0
California	1986	159	24	7	0	0
California	1987	176	27	3	0	0
California	1988	199	32	2	0	0
California	1989	228	30	4	0	0
California	1990	253	33	6	0	0
California	1991	280	24	3	0	0
California	1992	300	37	4	1	0
California	1993	333	33	2	1	0
California	1994	363	22	4	0	0
California	1995	386	36	2	0	0
California	1996	420	39	3	2	0
California	1997	455	36	5	0	0
California	1998	487	31	5	1	0
California	1999	512	43	0	2	0
California	2000	556	31	0	1	0
California	2001	587	24	7	1	0
California	2002	605	14	4	1	0
California	2003	613	19	3	0	0
California	2004	630	11	4	0	0
California	2005	637	23	12	2	0
California	2006	646	17	6	1	0
California	2007	656	10	11	0	0
California	2008	655	20	6	0	0
California	2009	668	29	13	0	0
Colorado	1977	3	2	0	0	0
Colorado	1978	5	1	6	0	0
Colorado	1979	0	0	0	0	0
Colorado	1980	0	0	0	0	0
Colorado	1981	0	1	0	0	0
Colorado	1982	1	1	0	0	0
Colorado	1983	2	0	1	0	0
Colorado	1984	1	1	1	0	0
Colorado	1985	1	0	0	0	0
Colorado	1986	1	0	0	0	0
Colorado	1987	1	2	0	0	0
Colorado	1988	4	0	1	0	0
Colorado	1989	3	0	0	0	0
Colorado	1990	3	0	0	0	0
Colorado	1991	3	1	1	0	0
Colorado	1992	3	0	0	0	0
Colorado	1993	3	0	0	0	0
Colorado	1994	3	0	0	0	0
Colorado	1995	3	1	0	0	0
Colorado	1996	4	1	0	0	0
Colorado	1997	5	0	0	1	0
Colorado	1998	4	0	1	0	0
Colorado	1999	3	1	0	0	0
Colorado	2000	5	0	0	0	0
Colorado	2001	6	0	0	0	0
Colorado	2002	6	0	1	0	0
Colorado	2003	5	1	3	0	0
Colorado	2004	3	0	0	0	0
Colorado	2005	3	0	1	0	0
Colorado	2006	2	0	0	0	0
Colorado	2007	2	0	1	0	0
Colorado	2008	1	1	0	0	0

Appendix

Table 5 - Summary of Actions, By State

Colorado	2009	2	0	0	0	0
Kentucky	1977	3	0	3	0	0
Kentucky	1978	0	3	0	0	0
Kentucky	1979	3	0	0	0	0
Kentucky	1980	3	4	2	0	0
Kentucky	1981	5	4	0	0	0
Kentucky	1982	9	6	2	0	0
Kentucky	1983	13	6	0	0	0
Kentucky	1984	18	2	0	0	0
Kentucky	1985	20	6	1	0	0
Kentucky	1986	23	8	0	0	0
Kentucky	1987	31	3	2	0	0
Kentucky	1988	32	2	2	0	0
Kentucky	1989	32	1	4	0	0
Kentucky	1990	26	0	0	0	0
Kentucky	1991	27	3	0	0	0
Kentucky	1992	29	3	3	0	0
Kentucky	1993	29	2	1	0	0
Kentucky	1994	29	4	4	0	0
Kentucky	1995	29	0	1	0	0
Kentucky	1996	28	2	1	0	0
Kentucky	1997	29	2	0	1	0
Kentucky	1998	31	5	0	0	0
Kentucky	1999	37	4	1	1	0
Kentucky	2000	39	3	2	0	0
Kentucky	2001	39	2	5	0	0
Kentucky	2002	36	1	1	0	0
Kentucky	2003	36	0	1	0	1
Kentucky	2004	34	1	1	0	0
Kentucky	2005	35	1	0	0	0
Kentucky	2006	36	4	0	0	0
Kentucky	2007	40	0	1	0	1
Kentucky	2008	38	0	1	1	0
Kentucky	2009	36	0	1	0	0
Mississippi	1977	1	7	0	0	0
Mississippi	1978	8	2	0	0	0
Mississippi	1979	10	1	0	0	0
Mississippi	1980	11	3	2	0	0
Mississippi	1981	14	13	0	0	0
Mississippi	1982	27	10	0	0	0
Mississippi	1983	35	5	2	1	0
Mississippi	1984	37	7	5	0	0
Mississippi	1985	39	5	3	0	0
Mississippi	1986	40	2	4	0	0
Mississippi	1987	44	12	4	2	0
Mississippi	1988	50	3	5	0	0
Mississippi	1989	47	3	5	1	0
Mississippi	1990	40	10	3	0	0
Mississippi	1991	46	5	0	0	0
Mississippi	1992	47	4	9	0	0
Mississippi	1993	42	12	4	0	0
Mississippi	1994	50	5	5	0	0
Mississippi	1995	50	3	4	0	0
Mississippi	1996	51	9	3	0	0
Mississippi	1997	57	7	0	0	0
Mississippi	1998	62	8	5	0	0
Mississippi	1999	63	4	7	0	0
Mississippi	2000	60	3	2	0	0
Mississippi	2001	61	2	1	0	0
Mississippi	2002	64	5	1	2	0
Mississippi	2003	65	3	2	0	0
Mississippi	2004	69	2	1	0	0
Mississippi	2005	70	2	3	1	0
Mississippi	2006	67	4	1	1	0
Mississippi	2007	68	2	5	0	0
Mississippi	2008	65	0	3	2	0
Mississippi	2009	60	2	2	0	0

Appendix

Table 5 - Summary of Actions, By State

New Jersey	1977	0	0	0	0	0
New Jersey	1978	0	0	0	0	0
New Jersey	1979	0	0	0	0	0
New Jersey	1980	0	0	0	0	0
New Jersey	1981	0	0	0	0	0
New Jersey	1982	0	0	0	0	0
New Jersey	1983	0	3	0	0	0
New Jersey	1984	3	7	0	0	0
New Jersey	1985	10	7	0	0	0
New Jersey	1986	17	6	0	0	0
New Jersey	1987	23	8	3	0	0
New Jersey	1988	28	1	8	0	0
New Jersey	1989	21	1	4	0	0
New Jersey	1990	18	3	11	0	0
New Jersey	1991	10	0	6	0	0
New Jersey	1992	4	0	1	0	0
New Jersey	1993	3	4	0	0	0
New Jersey	1994	7	3	1	0	0
New Jersey	1995	9	2	1	0	0
New Jersey	1996	10	3	2	0	0
New Jersey	1997	11	3	0	0	0
New Jersey	1998	14	1	1	0	0
New Jersey	1999	14	1	1	0	0
New Jersey	2000	14	1	0	0	0
New Jersey	2001	16	1	1	0	0
New Jersey	2002	16	1	3	0	0
New Jersey	2003	14	0	0	0	0
New Jersey	2004	14	1	4	0	0
New Jersey	2005	11	0	1	0	0
New Jersey	2006	10	0	1	0	0
New Jersey	2007	9	0	9	0	8
New Mexico	1977	0	0	0	0	0
New Mexico	1978	0	0	0	0	0
New Mexico	1979	0	0	0	0	0
New Mexico	1980	0	1	0	0	0
New Mexico	1981	1	2	0	0	0
New Mexico	1982	3	2	0	0	0
New Mexico	1983	5	1	0	0	0
New Mexico	1984	6	0	1	0	0
New Mexico	1985	5	0	0	0	0
New Mexico	1986	5	0	5	0	5
New Mexico	1987	0	2	0	0	0
New Mexico	1988	2	0	0	0	0
New Mexico	1989	2	0	1	0	0
New Mexico	1990	1	0	0	0	0
New Mexico	1991	1	0	0	0	0
New Mexico	1992	1	0	0	0	0
New Mexico	1993	1	0	0	0	0
New Mexico	1994	1	1	0	0	0
New Mexico	1995	1	2	0	0	0
New Mexico	1996	3	2	1	0	0
New Mexico	1997	4	0	0	0	0
New Mexico	1998	4	0	0	0	0
New Mexico	1999	4	0	0	0	0
New Mexico	2000	5	0	0	0	0
New Mexico	2001	5	0	1	1	0
New Mexico	2002	3	1	2	0	0
New Mexico	2003	2	0	0	0	0
New Mexico	2004	2	0	0	0	0
New Mexico	2005	2	0	0	0	0
New Mexico	2006	2	0	0	0	0
New Mexico	2007	2	0	0	0	0
New Mexico	2008	2	0	0	0	0
New Mexico	2009	2	0	0	0	0
New York	1977	2	0	2	0	0
New York	1978	0	0	0	0	0
New York	1979	0	0	0	0	0

Appendix

Table 5 - Summary of Actions, By State

New York	1980	0	0	0	0	0
New York	1981	0	0	0	0	0
New York	1982	0	0	0	0	0
New York	1983	0	1	0	0	0
New York	1984	1	0	1	0	0
New York	1996	0	0	0	0	0
New York	1997	0	0	0	0	0
New York	1998	0	1	0	0	0
New York	1999	1	4	0	0	0
New York	2000	5	1	0	0	0
New York	2001	6	0	0	0	0
New York	2002	6	0	1	0	0
New York	2003	5	1	1	0	0
New York	2004	5	0	3	0	0
New York	2005	2	0	1	0	0
New York	2006	1	0	0	0	0
New York	2007	1	0	1	0	0
New York	2008	0	0	0	0	0
New York	2009	0	0	0	0	0
North Carolina	1977	0	2	1	0	0
North Carolina	1978	1	6	0	0	0
North Carolina	1979	7	7	6	0	0
North Carolina	1980	8	8	1	0	0
North Carolina	1981	15	5	3	0	0
North Carolina	1982	17	12	1	0	0
North Carolina	1983	28	11	6	0	0
North Carolina	1984	33	12	6	2	0
North Carolina	1985	37	20	1	0	0
North Carolina	1986	56	11	3	1	0
North Carolina	1987	63	16	3	0	0
North Carolina	1988	74	17	11	0	0
North Carolina	1989	79	9	0	0	0
North Carolina	1990	83	14	13	0	0
North Carolina	1991	84	17	26	1	0
North Carolina	1992	73	22	18	1	1
North Carolina	1993	76	32	9	0	0
North Carolina	1994	99	27	14	1	0
North Carolina	1995	111	34	4	2	0
North Carolina	1996	138	25	2	0	0
North Carolina	1997	161	22	7	0	0
North Carolina	1998	176	20	6	3	0
North Carolina	1999	187	24	5	4	1
North Carolina	2000	202	18	4	1	1
North Carolina	2001	215	14	8	5	1
North Carolina	2002	215	7	14	2	1
North Carolina	2003	206	6	10	7	0
North Carolina	2004	194	4	13	4	0
North Carolina	2005	180	6	7	5	0
North Carolina	2006	171	5	6	4	0
North Carolina	2007	166	3	2	0	0
North Carolina	2008	166	1	6	0	0
North Carolina	2009	161	2	4	0	0
Oregon	1977	0	0	0	0	0
Oregon	1978	0	0	0	0	0
Oregon	1979	0	1	0	0	0
Oregon	1980	1	2	0	0	0
Oregon	1981	3	0	3	0	0
Oregon	1982	0	0	0	0	0
Oregon	1983	0	0	0	0	0
Oregon	1984	0	0	0	0	0
Oregon	1985	0	0	0	0	0
Oregon	1986	0	2	0	0	0
Oregon	1987	2	3	0	0	0
Oregon	1988	5	11	1	0	0
Oregon	1989	15	8	0	0	0
Oregon	1990	23	0	13	0	0
Oregon	1991	10	3	4	0	0

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Table 5 - Summary of Actions, By State

Oregon	1992	9	6	4	0	0
Oregon	1993	11	4	2	0	0
Oregon	1994	13	6	2	0	0
Oregon	1995	18	2	0	0	0
Oregon	1996	20	3	2	1	0
Oregon	1997	19	3	1	1	0
Oregon	1998	20	3	0	0	0
Oregon	1999	23	2	0	0	0
Oregon	2000	25	0	0	0	0
Oregon	2001	25	2	1	0	0
Oregon	2002	26	0	0	0	0
Oregon	2003	27	2	1	0	0
Oregon	2004	28	2	0	0	0
Oregon	2005	30	1	0	0	0
Oregon	2006	31	1	0	0	0
Oregon	2007	33	2	0	0	0
Oregon	2008	35	0	0	0	0
Oregon	2009	34	0	3	0	0
South Carolina	1977	0	4	0	0	0
South Carolina	1978	4	3	0	0	0
South Carolina	1979	7	5	4	0	0
South Carolina	1980	8	7	1	0	0
South Carolina	1981	14	8	1	0	0
South Carolina	1982	21	2	6	0	0
South Carolina	1983	17	12	1	0	0
South Carolina	1984	28	9	2	0	0
South Carolina	1985	35	9	1	1	0
South Carolina	1986	40	13	5	1	0
South Carolina	1987	47	1	3	0	0
South Carolina	1988	39	4	7	0	0
South Carolina	1989	35	7	0	0	0
South Carolina	1990	41	3	1	1	0
South Carolina	1991	40	8	2	1	0
South Carolina	1992	41	2	2	0	0
South Carolina	1993	41	7	1	0	0
South Carolina	1994	52	7	0	0	0
South Carolina	1995	59	10	1	1	0
South Carolina	1996	67	8	1	6	0
South Carolina	1997	68	5	3	2	0
South Carolina	1998	68	8	1	7	0
South Carolina	1999	68	5	4	4	0
South Carolina	2000	65	5	3	1	0
South Carolina	2001	66	8	1	0	0
South Carolina	2002	73	5	3	3	0
South Carolina	2003	72	5	6	0	0
South Carolina	2004	71	5	1	4	0
South Carolina	2005	71	3	3	3	0
South Carolina	2006	69	4	10	1	0
South Carolina	2007	62	4	6	1	0
South Carolina	2008	59	4	2	3	0
South Carolina	2009	58	2	3	2	0
South Dakota	1977	0	0	0	0	0
South Dakota	1978	0	0	0	0	0
South Dakota	1979	0	0	0	0	0
South Dakota	1980	0	0	0	0	0
South Dakota	1981	0	0	0	0	0
South Dakota	1982	0	0	0	0	0
South Dakota	1983	0	0	0	0	0
South Dakota	1984	0	0	0	0	0
South Dakota	1985	0	0	0	0	0
South Dakota	1986	0	0	0	0	0
South Dakota	1987	0	0	0	0	0
South Dakota	1988	0	0	0	0	0
South Dakota	1989	0	0	0	0	0
South Dakota	1990	0	0	0	0	0
South Dakota	1991	0	0	0	0	0
South Dakota	1992	0	1	0	0	0

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Table 5 - Summary of Actions, By State

South Dakota	1993	1	1	0	0	0
South Dakota	1994	2	0	0	0	0
South Dakota	1995	2	0	0	0	0
South Dakota	1996	2	0	1	0	0
South Dakota	1997	1	1	0	0	0
South Dakota	1998	2	0	0	0	0
South Dakota	1999	2	1	0	0	0
South Dakota	2000	3	0	0	0	0
South Dakota	2001	3	2	0	0	0
South Dakota	2002	5	0	0	0	0
South Dakota	2003	5	0	1	0	0
South Dakota	2004	4	0	0	0	0
South Dakota	2005	4	0	0	0	0
South Dakota	2006	4	0	0	0	0
South Dakota	2007	4	0	0	1	0
South Dakota	2008	3	0	0	0	0
South Dakota	2009	3	0	1	0	0
Virginia	1977	0	1	0	0	0
Virginia	1978	1	5	0	0	0
Virginia	1979	6	3	1	0	0
Virginia	1980	8	4	0	0	0
Virginia	1981	13	5	1	0	0
Virginia	1982	17	4	1	1	0
Virginia	1983	19	3	2	0	0
Virginia	1984	20	9	0	1	0
Virginia	1985	28	2	1	2	0
Virginia	1986	27	9	2	1	0
Virginia	1987	34	6	1	1	0
Virginia	1988	38	3	1	1	0
Virginia	1989	39	5	0	1	0
Virginia	1990	43	6	1	3	0
Virginia	1991	45	6	2	2	1
Virginia	1992	47	7	1	4	1
Virginia	1993	49	6	1	5	0
Virginia	1994	49	10	2	2	1
Virginia	1995	55	6	0	5	0
Virginia	1996	57	1	1	8	1
Virginia	1997	49	4	1	9	1
Virginia	1998	43	9	0	13	0
Virginia	1999	39	7	1	14	1
Virginia	2000	31	8	2	8	0
Virginia	2001	30	4	6	2	0
Virginia	2002	26	3	2	4	0
Virginia	2003	23	6	0	2	0
Virginia	2004	27	2	1	5	0
Virginia	2005	23	1	2	0	1
Virginia	2006	22	2	0	4	0
Virginia	2007	19	1	0	0	0
Virginia	2008	21	0	2	4	1
Virginia	2009	15	1	0	3	0
Washington	1977	0	2	0	0	0
Washington	1978	2	4	0	0	0
Washington	1979	6	1	2	0	0
Washington	1980	5	0	0	0	0
Washington	1981	5	0	5	0	0
Washington	1982	1	2	0	0	0
Washington	1983	3	2	1	0	0
Washington	1984	4	0	0	0	0
Washington	1985	4	1	0	0	0
Washington	1986	5	2	0	0	0
Washington	1987	7	1	0	0	0
Washington	1988	8	0	1	0	0
Washington	1989	7	0	0	0	0
Washington	1990	7	3	0	0	0
Washington	1991	10	1	1	0	0
Washington	1993	11	2	2	1	0
Washington	1993	10	1	0	0	0

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Table 5 - Summary of Actions, By State

Washington	1994	10	2	1	1	0
Washington	1995	9	1	1	0	0
Washington	1996	9	2	0	0	0
Washington	1997	11	3	2	0	0
Washington	1998	12	3	0	1	0
Washington	1999	14	0	1	0	0
Washington	2000	13	0	0	0	0
Washington	2001	11	3	4	1	0
Washington	2002	9	1	0	0	0
Washington	2003	10	0	0	0	0
Washington	2004	10	0	0	0	0
Washington	2005	10	0	0	0	0
Washington	2006	10	0	1	0	0
Washington	2007	9	0	1	0	0
Washington	2008	8	0	0	0	0
Washington	2009	8	0	0	0	0
Wyoming	1977	5	0	5	0	0
Wyoming	1978	0	0	0	0	0
Wyoming	1979	0	1	0	0	0
Wyoming	1980	1	0	0	0	0
Wyoming	1981	1	0	1	0	0
Wyoming	1982	0	3	0	0	0
Wyoming	1983	3	0	0	0	0
Wyoming	1984	3	0	0	0	0
Wyoming	1985	3	0	0	0	0
Wyoming	1986	3	0	0	0	0
Wyoming	1987	2	1	1	0	0
Wyoming	1988	2	0	0	0	0
Wyoming	1989	2	0	0	0	0
Wyoming	1990	2	0	0	0	0
Wyoming	1991	2	0	1	0	0
Wyoming	1993	0	0	0	0	0
Wyoming	1993	1	0	0	1	0
Wyoming	1994	0	0	0	0	0
Wyoming	1995	0	0	0	0	0
Wyoming	1996	0	0	0	0	0
Wyoming	1997	0	0	0	0	0
Wyoming	1998	1	1	0	0	0
Wyoming	1999	2	0	0	0	0
Wyoming	2000	2	0	0	0	0
Wyoming	2001	2	0	0	0	0
Wyoming	2002	2	0	0	0	0
Wyoming	2003	2	0	1	0	0
Wyoming	2004	1	1	0	0	0
Wyoming	2005	2	0	0	0	0
Wyoming	2006	2	0	0	0	0
Wyoming	2007	2	0	0	0	0
Wyoming	2008	2	0	1	0	0
Wyoming	2009	1	0	0	0	0
Arizona	1977	16	4	2	0	0
Arizona	1978	21	10	23	0	0
Arizona	1979	8	16	2	0	0
Arizona	1980	23	12	1	0	0
Arizona	1981	33	8	3	0	0
Arizona	1982	38	15	2	0	0
Arizona	1983	51	7	7	0	0
Arizona	1984	51	12	7	0	0
Arizona	1985	56	4	4	0	0
Arizona	1986	55	6	2	0	0
Arizona	1987	62	12	1	0	0
Arizona	1988	72	13	3	0	0
Arizona	1989	78	8	2	0	0
Arizona	1990	84	11	4	0	0
Arizona	1991	87	13	3	0	0
Arizona	1992	98	8	2	1	0
Arizona	1993	103	13	2	2	0
Arizona	1994	117	10	6	0	0

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Table 5 - Summary of Actions, By State

Arizona	1995	121	5	8	1	0
Arizona	1996	118	5	0	2	0
Arizona	1997	121	8	7	2	0
Arizona	1998	120	6	2	4	0
Arizona	1999	121	6	4	7	0
Arizona	2000	117	7	2	3	0
Arizona	2001	119	7	0	0	0
Arizona	2002	124	1	5	0	0
Arizona	2003	117	9	3	0	0
Arizona	2004	124	4	23	0	0
Arizona	2005	107	8	6	0	0
Arizona	2006	108	6	4	0	0
Arizona	2007	110	7	0	1	0
Arizona	2008	117	6	4	0	0
Arizona	2009	118	14	1	0	0
Delaware	1977	0	0	0	0	0
Delaware	1978	0	1	0	0	0
Delaware	1979	1	0	0	0	0
Delaware	1980	1	2	0	0	0
Delaware	1981	3	1	0	0	0
Delaware	1982	4	1	0	0	0
Delaware	1983	6	0	0	0	0
Delaware	1984	6	0	0	0	0
Delaware	1985	6	0	2	0	0
Delaware	1986	4	0	0	0	0
Delaware	1987	5	1	0	0	0
Delaware	1988	6	1	0	0	0
Delaware	1989	7	0	0	0	0
Delaware	1990	7	0	1	0	0
Delaware	1991	6	1	0	0	0
Delaware	1992	7	5	0	1	0
Delaware	1993	11	6	0	2	0
Delaware	1994	15	0	0	1	0
Delaware	1995	14	1	0	1	0
Delaware	1996	14	0	0	3	0
Delaware	1997	11	4	0	0	0
Delaware	1998	15	2	0	0	0
Delaware	1999	17	2	0	2	0
Delaware	2000	18	0	2	1	0
Delaware	2001	15	5	4	2	0
Delaware	2002	14	2	2	0	0
Delaware	2003	14	2	0	0	0
Delaware	2004	16	2	1	0	0
Delaware	2005	17	0	0	1	0
Delaware	2006	16	2	2	0	0
Delaware	2007	17	2	0	0	0
Delaware	2008	19	1	0	0	0
Delaware	2009	19	0	2	0	0
Florida	1977	82	25	11	0	0
Florida	1978	96	32	7	0	0
Florida	1979	123	23	7	1	2
Florida	1980	135	29	11	0	2
Florida	1981	155	24	18	0	1
Florida	1982	163	39	13	0	0
Florida	1983	186	34	26	1	1
Florida	1984	193	38	8	8	0
Florida	1985	215	27	13	3	0
Florida	1986	227	39	9	3	0
Florida	1987	254	44	20	1	0
Florida	1988	283	42	28	2	0
Florida	1989	287	37	33	2	0
Florida	1990	285	31	13	4	0
Florida	1991	291	45	23	2	0
Florida	1992	310	27	23	2	0
Florida	1993	313	32	18	3	0
Florida	1994	325	39	21	1	0
Florida	1995	353	31	19	3	0

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Table 5 - Summary of Actions, By State

Florida	1996	364	25	14	2	0
Florida	1997	374	18	21	1	0
Florida	1998	367	25	16	4	0
Florida	1999	375	20	29	1	0
Florida	2000	368	20	11	6	0
Florida	2001	371	15	13	1	0
Florida	2002	373	10	14	3	0
Florida	2003	366	11	10	3	0
Florida	2004	364	9	7	2	0
Florida	2005	367	15	9	1	0
Florida	2006	368	18	8	4	0
Florida	2007	375	21	7	0	0
Florida	2008	388	16	12	2	0
Florida	2009	391	15	15	2	0
Louisiana	1977	34	0	34	0	0
Louisiana	1978	0	1	0	0	0
Louisiana	1979	2	0	0	0	0
Louisiana	1980	7	0	0	0	0
Louisiana	1981	12	0	2	0	0
Louisiana	1982	14	1	2	0	0
Louisiana	1983	21	5	1	1	0
Louisiana	1984	29	5	2	5	0
Louisiana	1985	31	10	1	1	0
Louisiana	1986	40	3	4	0	0
Louisiana	1987	46	9	5	8	0
Louisiana	1988	44	1	2	3	0
Louisiana	1989	39	0	4	0	1
Louisiana	1990	35	0	3	1	0
Louisiana	1991	32	7	1	1	0
Louisiana	1992	37	7	0	0	0
Louisiana	1993	44	7	5	1	0
Louisiana	1994	43	6	2	0	0
Louisiana	1995	47	12	1	1	0
Louisiana	1996	56	9	1	1	0
Louisiana	1997	62	12	3	1	0
Louisiana	1998	70	9	4	0	0
Louisiana	1999	77	10	1	1	0
Louisiana	2000	85	9	3	1	0
Louisiana	2001	89	2	3	0	0
Louisiana	2002	85	7	5	1	0
Louisiana	2003	90	1	4	0	1
Louisiana	2004	87	6	6	0	0
Louisiana	2005	87	4	8	0	0
Louisiana	2006	83	3	0	0	0
Louisiana	2007	86	1	1	0	0
Louisiana	2008	85	3	4	0	0
Louisiana	2009	84	3	4	0	0
Oklahoma	1977	0	5	0	0	0
Oklahoma	1978	5	12	1	0	0
Oklahoma	1979	16	9	0	0	0
Oklahoma	1980	25	7	2	0	0
Oklahoma	1981	30	9	3	0	0
Oklahoma	1982	36	8	5	0	0
Oklahoma	1983	39	8	8	0	0
Oklahoma	1984	38	16	5	0	0
Oklahoma	1985	50	14	6	0	0
Oklahoma	1986	58	16	2	0	0
Oklahoma	1987	72	15	1	0	0
Oklahoma	1988	85	15	8	0	0
Oklahoma	1989	99	11	1	0	0
Oklahoma	1990	112	9	2	1	0
Oklahoma	1991	117	12	4	0	0
Oklahoma	1992	124	5	7	2	0
Oklahoma	1993	120	8	6	0	0
Oklahoma	1994	122	12	5	0	0
Oklahoma	1995	130	15	13	3	0
Oklahoma	1996	129	16	10	2	0

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Table 5 - Summary of Actions, By State

Oklahoma	1997	134	11	7	1	0
Oklahoma	1998	136	15	3	4	0
Oklahoma	1999	144	6	5	6	0
Oklahoma	2000	141	7	8	11	0
Oklahoma	2001	132	2	3	18	1
Oklahoma	2002	114	7	2	7	0
Oklahoma	2003	112	9	5	14	0
Oklahoma	2004	101	5	9	6	1
Oklahoma	2005	92	5	7	4	0
Oklahoma	2006	87	4	3	4	0
Oklahoma	2007	84	3	4	3	0
Oklahoma	2008	80	9	2	2	1
Oklahoma	2009	84	2	4	3	0
Pennsylvania	1977	6	8	14	0	0
Pennsylvania	1978	0	0	0	0	0
Pennsylvania	1979	0	4	0	0	0
Pennsylvania	1980	4	3	0	0	0
Pennsylvania	1981	7	5	1	0	0
Pennsylvania	1982	16	9	0	0	0
Pennsylvania	1983	26	15	8	0	0
Pennsylvania	1984	35	14	2	0	0
Pennsylvania	1985	49	13	6	0	0
Pennsylvania	1986	58	19	3	0	0
Pennsylvania	1987	74	13	7	0	0
Pennsylvania	1988	81	21	4	0	0
Pennsylvania	1989	102	15	5	0	0
Pennsylvania	1990	114	10	3	0	0
Pennsylvania	1991	122	19	4	0	0
Pennsylvania	1992	138	16	1	0	0
Pennsylvania	1993	153	17	1	0	0
Pennsylvania	1994	168	21	7	0	0
Pennsylvania	1995	181	20	3	2	0
Pennsylvania	1996	197	11	5	0	0
Pennsylvania	1997	208	10	4	0	0
Pennsylvania	1998	215	12	3	0	0
Pennsylvania	1999	227	15	11	1	0
Pennsylvania	2000	230	12	4	0	0
Pennsylvania	2001	240	6	5	0	0
Pennsylvania	2002	241	9	9	0	0
Pennsylvania	2003	240	6	16	0	0
Pennsylvania	2004	229	5	12	0	0
Pennsylvania	2005	220	7	9	0	0
Pennsylvania	2006	220	4	5	0	0
Pennsylvania	2007	219	6	4	0	0
Pennsylvania	2008	224	5	6	0	0
Pennsylvania	2009	223	8	13	0	0
Rhode Island	1977	2	0	0	0	0
Rhode Island	1978	2	0	0	0	0
Rhode Island	1979	2	0	2	0	0
Texas	1977	58	16	9	0	0
Texas	1978	75	33	8	0	0
Texas	1979	106	17	6	0	0
Texas	1980	117	26	4	0	0
Texas	1981	140	26	22	0	0
Texas	1982	145	28	24	1	0
Texas	1983	149	33	19	0	0
Texas	1984	163	21	3	3	0
Texas	1985	180	36	4	6	0
Texas	1986	208	41	3	10	0
Texas	1987	235	36	9	6	0
Texas	1988	255	34	2	3	0
Texas	1989	284	29	5	4	0
Texas	1990	306	24	6	4	0
Texas	1991	323	26	4	5	0
Texas	1992	337	31	12	12	0
Texas	1993	352	27	5	17	0
Texas	1994	366	43	1	14	0

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Table 5 - Summary of Actions, By State

Texas	1995	391	40	8	19	0
Texas	1996	408	33	0	3	0
Texas	1997	444	32	1	37	0
Texas	1998	439	39	7	20	1
Texas	1999	452	48	5	35	0
Texas	2000	460	34	4	40	0
Texas	2001	450	26	6	17	0
Texas	2002	453	37	7	33	0
Texas	2003	449	29	1	24	0
Texas	2004	454	23	8	23	0
Texas	2005	448	14	32	19	0
Texas	2006	410	11	6	24	0
Texas	2007	392	14	8	26	1
Texas	2008	367	9	4	18	0
Texas	2009	356	8	9	24	0
Idaho	1977	2	1	2	0	0
Idaho	1978	1	0	0	0	0
Idaho	1979	1	1	1	0	0
Idaho	1980	1	0	0	0	0
Idaho	1981	1	2	1	0	0
Idaho	1982	2	5	0	0	0
Idaho	1983	7	0	0	0	0
Idaho	1984	7	7	0	0	0
Idaho	1985	14	1	1	0	0
Idaho	1986	14	1	1	0	0
Idaho	1987	14	0	1	0	0
Idaho	1988	13	3	1	0	0
Idaho	1989	15	3	0	0	0
Idaho	1990	18	1	0	0	0
Idaho	1991	19	2	0	0	0
Idaho	1992	21	2	0	0	0
Idaho	1993	22	2	2	0	0
Idaho	1994	21	0	1	1	0
Idaho	1995	20	0	1	0	0
Idaho	1996	19	1	2	0	1
Idaho	1997	18	1	0	0	0
Idaho	1998	19	1	1	0	0
Idaho	1999	20	1	0	0	0
Idaho	2000	21	0	0	0	0
Idaho	2001	21	2	2	0	0
Idaho	2002	20	1	1	0	0
Idaho	2003	20	1	2	0	0
Idaho	2004	22	1	1	0	0
Idaho	2005	22	0	4	0	0
Idaho	2006	18	0	0	0	0
Idaho	2007	18	0	1	0	0
Idaho	2008	17	0	0	0	0
Idaho	2009	14	0	0	0	0
Illinois	1977	0	1	0	0	0
Illinois	1978	1	4	0	0	0
Illinois	1979	5	14	0	0	0
Illinois	1980	19	16	3	0	0
Illinois	1981	31	11	1	0	0
Illinois	1982	41	10	2	0	0
Illinois	1983	50	16	2	0	0
Illinois	1984	64	12	5	0	0
Illinois	1985	70	15	2	0	0
Illinois	1986	78	25	2	0	0
Illinois	1987	101	11	4	0	0
Illinois	1988	109	13	4	0	0
Illinois	1989	115	9	9	0	0
Illinois	1990	119	17	7	1	0
Illinois	1991	128	7	3	0	0
Illinois	1992	132	16	3	0	0
Illinois	1993	144	12	4	0	0
Illinois	1994	151	11	6	1	0
Illinois	1995	155	13	9	5	0

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Table 5 - Summary of Actions, By State

Illinois	1996	154	16	8	1	1
Illinois	1997	161	6	6	2	0
Illinois	1998	161	7	10	1	0
Illinois	1999	158	8	9	1	0
Illinois	2000	160	9	6	0	0
Illinois	2001	164	1	7	0	0
Illinois	2002	159	6	6	0	0
Illinois	2003	159	2	159	0	171
Illinois	2004	2	4	0	0	0
Illinois	2005	6	1	0	0	0
Illinois	2006	7	3	0	0	0
Illinois	2007	10	3	0	0	0
Illinois	2008	13	3	1	0	0
Illinois	2009	15	1	0	0	0
Indiana	1977	7	1	8	0	0
Indiana	1978	0	2	0	0	0
Indiana	1979	2	1	0	0	0
Indiana	1980	3	4	1	0	0
Indiana	1981	6	5	0	1	0
Indiana	1982	10	5	0	0	0
Indiana	1983	15	6	0	0	0
Indiana	1984	21	7	2	0	0
Indiana	1985	26	10	1	1	0
Indiana	1986	34	6	0	0	0
Indiana	1987	40	4	0	0	0
Indiana	1988	44	8	1	0	0
Indiana	1989	51	1	4	0	0
Indiana	1990	47	3	2	0	0
Indiana	1991	48	3	2	0	0
Indiana	1992	50	4	4	0	0
Indiana	1993	49	2	4	0	0
Indiana	1994	47	2	1	1	0
Indiana	1995	47	3	4	0	0
Indiana	1996	45	3	2	1	0
Indiana	1997	46	1	2	1	0
Indiana	1998	44	3	1	1	0
Indiana	1999	45	2	3	1	0
Indiana	2000	42	2	1	0	0
Indiana	2001	41	0	3	2	0
Indiana	2002	34	4	2	0	0
Indiana	2003	37	1	1	2	0
Indiana	2004	31	0	4	0	1
Indiana	2005	27	1	3	5	2
Indiana	2006	20	0	2	1	0
Indiana	2007	17	0	1	2	0
Indiana	2008	14	0	1	0	0
Indiana	2009	15	1	1	1	0
Kansas	1995	0	0	0	0	0
Kansas	1996	0	0	0	0	0
Kansas	1997	0	0	0	0	0
Kansas	1998	0	1	0	0	0
Kansas	1999	2	1	0	0	0
Kansas	2000	3	1	0	0	0
Kansas	2001	4	0	0	0	0
Kansas	2002	4	2	1	0	0
Kansas	2003	5	1	0	0	0
Kansas	2004	6	1	7	0	0
Kansas	2005	0	0	0	0	0
Kansas	2006	1	1	0	0	0
Kansas	2007	7	0	0	0	0
Kansas	2008	7	2	1	0	0
Kansas	2009	8	1	0	0	0
Maryland	1977	0	0	0	0	0
Maryland	1978	0	0	0	0	0
Maryland	1979	0	1	0	0	0
Maryland	1980	1	1	0	0	0
Maryland	1981	2	7	1	0	0

Appendix

Table 5 - Summary of Actions, By State

Maryland	1982	8	7	1	0	0
Maryland	1983	14	0	3	0	0
Maryland	1984	11	8	0	0	0
Maryland	1985	19	0	2	0	0
Maryland	1986	17	2	1	0	0
Maryland	1987	18	1	2	0	1
Maryland	1988	16	1	3	0	0
Maryland	1989	14	2	0	0	0
Maryland	1990	15	4	0	0	0
Maryland	1991	17	1	2	0	0
Maryland	1992	15	2	2	0	0
Maryland	1993	15	1	1	0	0
Maryland	1994	14	0	0	1	0
Maryland	1995	13	0	0	0	0
Maryland	1996	13	7	1	0	0
Maryland	1997	19	0	1	1	0
Maryland	1998	17	2	1	1	0
Maryland	1999	17	1	1	0	0
Maryland	2000	16	2	2	0	1
Maryland	2001	16	0	0	0	0
Maryland	2002	15	2	2	0	0
Maryland	2003	15	0	4	0	0
Maryland	2004	11	1	2	1	0
Maryland	2005	8	0	0	1	0
Maryland	2006	7	0	1	0	0
Maryland	2007	6	0	1	0	0
Maryland	2008	5	0	0	0	0
Maryland	2009	5	0	0	0	0
Missouri	1977	0	0	0	0	0
Missouri	1978	0	0	0	0	0
Missouri	1979	0	2	0	0	0
Missouri	1980	2	5	0	0	0
Missouri	1981	7	7	0	0	0
Missouri	1982	14	8	1	0	0
Missouri	1983	21	2	0	0	0
Missouri	1984	23	7	1	0	0
Missouri	1985	29	8	1	0	0
Missouri	1986	36	10	3	0	0
Missouri	1987	43	9	0	0	0
Missouri	1988	52	17	1	0	0
Missouri	1989	69	5	1	1	0
Missouri	1990	72	6	2	4	0
Missouri	1991	71	13	6	1	0
Missouri	1992	77	7	1	1	0
Missouri	1993	82	6	4	4	1
Missouri	1994	80	9	1	0	0
Missouri	1995	88	10	0	6	0
Missouri	1996	92	9	2	6	0
Missouri	1997	93	10	9	6	0
Missouri	1998	89	6	2	3	0
Missouri	1999	89	7	4	9	1
Missouri	2000	83	3	2	5	0
Missouri	2001	78	5	3	7	0
Missouri	2002	72	2	2	6	0
Missouri	2003	66	3	15	2	0
Missouri	2004	52	2	2	0	0
Missouri	2005	51	2	2	5	0
Missouri	2006	46	4	3	0	0
Missouri	2007	47	1	3	0	0
Missouri	2008	45	6	1	0	0
Missouri	2009	50	2	0	1	0
Montana	1977	5	0	0	0	0
Montana	1978	4	0	0	0	0
Montana	1979	4	0	1	0	0
Montana	1980	3	0	0	0	0
Montana	1981	3	0	0	0	0
Montana	1982	3	0	0	0	0

Appendix

Table 5 - Summary of Actions, By State

Montana	1983	3	1	0	0	0
Montana	1984	4	0	0	0	0
Montana	1985	4	1	0	0	0
Montana	1986	5	0	0	0	0
Montana	1987	5	1	0	0	0
Montana	1988	6	2	1	0	1
Montana	1989	7	1	0	0	0
Montana	1990	8	0	2	0	0
Montana	1991	6	0	0	0	0
Montana	1992	6	2	0	0	0
Montana	1993	8	0	0	0	0
Montana	1994	8	0	0	0	0
Montana	1995	8	0	1	1	0
Montana	1996	6	2	1	0	0
Montana	1997	7	0	0	0	0
Montana	1998	7	0	0	1	0
Montana	1999	6	0	0	0	0
Montana	2000	6	0	0	0	0
Montana	2001	6	0	0	0	0
Montana	2002	6	0	0	0	0
Montana	2003	6	0	1	0	0
Montana	2004	5	0	1	0	0
Montana	2005	4	0	0	0	0
Montana	2006	4	0	1	1	0
Montana	2007	2	0	0	0	0
Montana	2008	2	0	0	0	0
Montana	2009	2	0	0	0	0
New Hampshire	1977	0	0	0	0	0
New Hampshire	1978	0	0	0	0	0
New Hampshire	1979	0	0	0	0	0
New Hampshire	1980	0	0	0	0	0
New Hampshire	1981	0	0	0	0	0
New Hampshire	1982	0	0	0	0	0
New Hampshire	1983	0	0	0	0	0
New Hampshire	1984	0	0	0	0	0
New Hampshire	1985	0	0	0	0	0
New Hampshire	1986	0	0	0	0	0
New Hampshire	1987	0	0	0	0	0
New Hampshire	1988	0	0	0	0	0
New Hampshire	1989	0	0	0	0	0
New Hampshire	1990	0	0	0	0	0
New Hampshire	1991	0	0	0	0	0
New Hampshire	1992	0	0	0	0	0
New Hampshire	1993	0	0	0	0	0
New Hampshire	1994	0	0	0	0	0
New Hampshire	1995	0	0	0	0	0
New Hampshire	1996	0	0	0	0	0
New Hampshire	1997	0	0	0	0	0
New Hampshire	1998	0	0	0	0	0
New Hampshire	1999	0	0	0	0	0
New Hampshire	2000	0	0	0	0	0
New Hampshire	2001	0	0	0	0	0
New Hampshire	2002	0	0	0	0	0
New Hampshire	2003	0	0	0	0	0
New Hampshire	2004	0	0	0	0	0
New Hampshire	2005	0	0	0	0	0
New Hampshire	2006	0	0	0	0	0
New Hampshire	2007	0	0	0	0	0
New Hampshire	2008	0	1	0	0	0
New Hampshire	2009	1	0	0	0	0
Ohio	1977	66	25	4	0	0
Ohio	1978	86	13	99	0	0
Ohio	1979	0	0	0	0	0
Ohio	1980	0	0	0	0	0
Ohio	1981	0	0	0	0	0
Ohio	1982	0	3	0	0	0
Ohio	1983	3	15	0	0	0

Appendix

Table 5 - Summary of Actions, By State

Ohio	1984	18	17	0	0	0
Ohio	1985	36	21	1	0	0
Ohio	1986	56	15	2	0	0
Ohio	1987	71	12	3	0	0
Ohio	1988	79	12	3	0	0
Ohio	1989	89	11	2	0	0
Ohio	1990	98	8	1	0	0
Ohio	1991	104	13	6	0	8
Ohio	1992	108	14	1	0	0
Ohio	1993	122	11	4	0	0
Ohio	1994	129	13	2	0	0
Ohio	1995	141	17	3	0	0
Ohio	1996	156	17	3	0	0
Ohio	1997	170	8	1	0	0
Ohio	1998	175	16	0	0	0
Ohio	1999	191	10	1	1	0
Ohio	2000	199	3	1	0	0
Ohio	2001	201	5	2	1	0
Ohio	2002	204	7	3	3	0
Ohio	2003	207	7	2	3	1
Ohio	2004	209	5	6	7	0
Ohio	2005	202	5	4	4	0
Ohio	2006	193	2	3	5	0
Ohio	2007	186	5	7	2	0
Ohio	2008	181	3	10	2	1
Ohio	2009	176	1	7	5	1
Tennessee	1977	33	0	33	0	0
Tennessee	1978	0	7	0	0	0
Tennessee	1979	8	3	0	0	0
Tennessee	1980	10	6	1	0	0
Tennessee	1981	15	8	2	0	0
Tennessee	1982	22	8	1	0	0
Tennessee	1983	28	5	2	0	0
Tennessee	1984	32	8	3	0	0
Tennessee	1985	37	11	2	0	0
Tennessee	1986	47	7	1	0	0
Tennessee	1987	54	9	1	0	0
Tennessee	1988	64	7	1	0	0
Tennessee	1989	70	6	1	0	0
Tennessee	1990	76	8	0	0	0
Tennessee	1991	85	12	0	0	0
Tennessee	1992	97	7	5	0	0
Tennessee	1993	99	2	3	0	0
Tennessee	1994	99	4	3	0	0
Tennessee	1995	100	4	8	0	0
Tennessee	1996	96	3	8	0	0
Tennessee	1997	93	7	2	0	0
Tennessee	1998	99	4	6	0	0
Tennessee	1999	99	6	5	0	0
Tennessee	2000	97	4	3	1	0
Tennessee	2001	98	3	5	0	0
Tennessee	2002	95	4	4	0	0
Tennessee	2003	96	6	6	0	0
Tennessee	2004	98	3	2	0	0
Tennessee	2005	101	2	0	0	0
Tennessee	2006	103	1	1	1	0
Tennessee	2007	102	1	5	2	1
Tennessee	2008	96	0	9	0	0
Tennessee	2009	88	3	0	2	0
Connecticut	1977	0	0	0	0	0
Connecticut	1978	0	0	0	0	0
Connecticut	1979	0	0	0	0	0
Connecticut	1980	0	0	0	0	0
Connecticut	1981	0	0	0	0	0
Connecticut	1982	0	0	0	0	0
Connecticut	1983	0	0	0	0	0
Connecticut	1984	0	0	0	0	0

Appendix

Table 5 - Summary of Actions, By State

Connecticut	1985	0	0	0	0	0
Connecticut	1986	0	0	0	0	0
Connecticut	1987	0	1	0	0	0
Connecticut	1988	1	0	0	0	0
Connecticut	1989	1	1	0	0	0
Connecticut	1990	2	0	0	0	0
Connecticut	1991	2	2	0	0	0
Connecticut	1992	4	0	0	0	0
Connecticut	1993	4	1	0	0	0
Connecticut	1994	5	0	1	0	0
Connecticut	1995	4	1	0	0	0
Connecticut	1996	5	0	1	0	0
Connecticut	1997	4	0	0	0	0
Connecticut	1998	5	0	0	0	0
Connecticut	1999	5	1	0	0	0
Connecticut	2000	6	2	1	0	0
Connecticut	2001	7	0	0	0	0
Connecticut	2002	7	0	0	0	0
Connecticut	2003	7	0	0	0	0
Connecticut	2004	7	1	1	0	0
Connecticut	2005	7	1	0	1	0
Connecticut	2006	8	0	1	0	0
Connecticut	2007	7	2	0	0	0
Connecticut	2008	9	1	0	0	0
Connecticut	2009	10	0	0	0	0
Georgia	1977	45	10	6	0	1
Georgia	1978	55	5	3	0	0
Georgia	1979	66	12	7	0	0
Georgia	1980	80	9	9	0	0
Georgia	1981	87	5	1	0	0
Georgia	1982	95	8	3	0	0
Georgia	1983	105	7	9	1	0
Georgia	1984	103	12	2	2	0
Georgia	1985	112	8	10	3	0
Georgia	1986	107	11	6	1	0
Georgia	1987	110	15	4	5	0
Georgia	1988	102	7	17	1	1
Georgia	1989	91	9	9	1	0
Georgia	1990	90	14	6	0	1
Georgia	1991	99	7	4	1	1
Georgia	1992	102	8	9	0	0
Georgia	1993	97	8	7	2	0
Georgia	1994	96	6	5	1	0
Georgia	1995	96	7	3	2	0
Georgia	1996	99	6	7	2	0
Georgia	1997	102	13	0	0	0
Georgia	1998	108	11	9	1	0
Georgia	1999	109	8	1	0	0
Georgia	2000	116	4	0	0	0
Georgia	2001	122	1	3	4	0
Georgia	2002	116	3	3	4	1
Georgia	2003	115	1	2	3	0
Georgia	2004	110	3	2	2	1
Georgia	2005	110	3	3	3	0
Georgia	2006	106	0	1	0	0
Georgia	2007	103	4	1	1	0
Georgia	2008	106	3	1	3	1
Georgia	2009	105	2	3	3	0
Nebraska	1977	5	0	1	0	0
Nebraska	1978	4	4	0	0	0
Nebraska	1979	8	1	1	0	0
Nebraska	1980	8	2	0	0	0
Nebraska	1981	10	2	0	0	0
Nebraska	1982	12	0	0	0	0
Nebraska	1983	12	0	2	0	0
Nebraska	1984	10	3	0	0	0
Nebraska	1985	13	0	1	0	0

Appendix

Table 5 - Summary of Actions, By State

Nebraska	1986	12	2	0	0	0
Nebraska	1987	14	0	1	0	0
Nebraska	1988	13	1	1	0	0
Nebraska	1989	13	0	1	0	0
Nebraska	1990	12	0	1	0	0
Nebraska	1991	11	1	0	0	0
Nebraska	1992	12	0	0	0	0
Nebraska	1993	12	0	1	0	0
Nebraska	1994	11	1	1	1	0
Nebraska	1995	10	0	0	0	0
Nebraska	1996	10	2	0	1	0
Nebraska	1997	11	1	0	1	0
Nebraska	1998	11	0	0	0	0
Nebraska	1999	11	0	2	0	0
Nebraska	2000	9	2	0	0	0
Nebraska	2001	11	1	5	0	0
Nebraska	2002	7	0	0	0	0
Nebraska	2003	7	0	0	0	0
Nebraska	2004	7	1	0	0	0
Nebraska	2005	8	2	0	0	0
Nebraska	2006	10	0	1	0	0
Nebraska	2007	9	0	0	0	0
Nebraska	2008	9	0	0	0	0
Nebraska	2009	10	1	0	0	0
Nevada	1977	3	1	1	0	0
Nevada	1978	3	4	1	0	0
Nevada	1979	6	3	1	1	0
Nevada	1980	7	3	0	0	0
Nevada	1981	10	4	2	0	0
Nevada	1982	12	5	0	0	0
Nevada	1983	18	6	1	0	0
Nevada	1984	23	8	3	0	0
Nevada	1985	28	7	3	1	0
Nevada	1986	31	5	1	0	0
Nevada	1987	35	5	2	0	0
Nevada	1988	39	7	2	0	0
Nevada	1989	45	10	1	2	0
Nevada	1990	53	5	0	1	0
Nevada	1991	59	4	3	0	0
Nevada	1992	60	2	0	0	0
Nevada	1993	63	3	1	0	0
Nevada	1994	64	8	6	0	0
Nevada	1995	65	11	1	0	0
Nevada	1996	75	10	3	1	0
Nevada	1997	83	4	0	0	0
Nevada	1998	86	2	3	1	0
Nevada	1999	84	5	2	1	0
Nevada	2000	86	7	5	0	0
Nevada	2001	88	1	2	1	0
Nevada	2002	86	1	4	0	1
Nevada	2003	82	4	2	0	0
Nevada	2004	84	1	0	2	0
Nevada	2005	83	1	2	0	0
Nevada	2006	83	1	1	1	0
Nevada	2007	82	2	1	0	0
Nevada	2008	82	1	2	0	0
Nevada	2009	81	1	2	0	0
Utah	1977	6	1	0	1	0
Utah	1978	6	0	0	0	0
Utah	1979	6	1	0	0	0
Utah	1980	7	1	4	0	0
Utah	1981	4	0	1	0	0
Utah	1982	3	0	0	0	0
Utah	1983	3	1	0	0	0
Utah	1984	4	1	0	0	0
Utah	1985	5	2	1	0	0
Utah	1986	7	0	0	0	0

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Table 5 - Summary of Actions, By State

Utah	1987	7	1	0	1	0
Utah	1988	7	2	0	1	0
Utah	1989	8	3	0	0	0
Utah	1990	11	0	0	0	0
Utah	1991	11	1	0	0	0
Utah	1992	12	0	1	1	0
Utah	1993	10	1	0	0	0
Utah	1994	11	0	1	0	0
Utah	1995	10	0	0	0	0
Utah	1996	10	1	1	1	0
Utah	1997	9	1	0	0	0
Utah	1998	10	0	0	0	0
Utah	1999	10	1	0	1	0
Utah	2000	11	0	0	0	0
Utah	2001	11	0	0	0	0
Utah	2002	11	0	0	0	0
Utah	2003	11	0	1	0	0
Utah	2004	10	0	0	0	0
Utah	2005	10	0	1	0	0
Utah	2006	9	0	0	0	0
Utah	2007	9	0	0	0	0
Utah	2008	9	1	0	0	0
Utah	2009	10	0	0	0	0

Source: Bureau of Justice Statistics, Capital Punishment Bulletins, 1977 through 2009

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

State	Mechanism for Clemency Decisionmaking	Year	Probability of Clemency	Rank of Clemency
Alabama	Governor Alone	1982	0.00000000	529.00
Alabama	Governor Alone	1984	0.00000000	529.00
Alabama	Governor Alone	1981	0.00000000	529.00
Alabama	Governor Alone	1978	0.00000000	529.00
Alabama	Governor Alone	1977	0.00000000	529.00
Arkansas	Governor Alone	1980	0.00000000	529.00
Arkansas	Governor Alone	1989	0.00000000	529.00
Arkansas	Governor Alone	1984	0.00000000	529.00
Arkansas	Governor Alone	1978	0.00000000	529.00
Arkansas	Governor Alone	2007	0.00000000	529.00
Arkansas	Governor Alone	2008	0.00000000	529.00
Arkansas	Governor Alone	2002	0.00000000	529.00
California	Governor Alone	1978	0.00000000	529.00
Colorado	Governor Alone	1990	0.00000000	529.00
Colorado	Governor Alone	1989	0.00000000	529.00
Colorado	Governor Alone	1986	0.00000000	529.00
Colorado	Governor Alone	1993	0.00000000	529.00
Colorado	Governor Alone	1982	0.00000000	529.00
Colorado	Governor Alone	1981	0.00000000	529.00
Colorado	Governor Alone	1977	0.00000000	529.00
Colorado	Governor Alone	1987	0.00000000	529.00
Colorado	Governor Alone	1993	0.00000000	529.00
Colorado	Governor Alone	2008	0.00000000	529.00
Colorado	Governor Alone	2006	0.00000000	529.00
Colorado	Governor Alone	2004	0.00000000	529.00
Colorado	Governor Alone	1985	0.00000000	529.00
Colorado	Governor Alone	1995	0.00000000	529.00
Colorado	Governor Alone	2009	0.00000000	529.00
Colorado	Governor Alone	2000	0.00000000	529.00
Colorado	Governor Alone	1999	0.00000000	529.00
Colorado	Governor Alone	1996	0.00000000	529.00
Colorado	Governor Alone	1994	0.00000000	529.00
Colorado	Governor Alone	2001	0.00000000	529.00
Kentucky	Governor Alone	1986	0.00000000	529.00
Kentucky	Governor Alone	1981	0.00000000	529.00
Kentucky	Governor Alone	1990	0.00000000	529.00
Kentucky	Governor Alone	1993	0.00000000	529.00
Kentucky	Governor Alone	1984	0.00000000	529.00
Kentucky	Governor Alone	1979	0.00000000	529.00
Kentucky	Governor Alone	1978	0.00000000	529.00
Kentucky	Governor Alone	1983	0.00000000	529.00
Kentucky	Governor Alone	2006	0.00000000	529.00
Kentucky	Governor Alone	2005	0.00000000	529.00
Kentucky	Governor Alone	1998	0.00000000	529.00
Mississippi	Governor Alone	1993	0.00000000	529.00
Mississippi	Governor Alone	1978	0.00000000	529.00
Mississippi	Governor Alone	1982	0.00000000	529.00
Mississippi	Governor Alone	1979	0.00000000	529.00
Mississippi	Governor Alone	1977	0.00000000	529.00
Mississippi	Governor Alone	1981	0.00000000	529.00
Mississippi	Governor Alone	1997	0.00000000	529.00
New Jersey	Governor Alone	1986	0.00000000	529.00
New Jersey	Governor Alone	1985	0.00000000	529.00
New Jersey	Governor Alone	1984	0.00000000	529.00
New Jersey	Governor Alone	1993	0.00000000	529.00
New Jersey	Governor Alone	1983	0.00000000	529.00
New Jersey	Governor Alone	2003	0.00000000	529.00
New Jersey	Governor Alone	2000	0.00000000	529.00
New Jersey	Governor Alone	1997	0.00000000	529.00
New Mexico	Governor Alone	1988	0.00000000	529.00
New Mexico	Governor Alone	1993	0.00000000	529.00
New Mexico	Governor Alone	1990	0.00000000	529.00
New Mexico	Governor Alone	1987	0.00000000	529.00
New Mexico	Governor Alone	1985	0.00000000	529.00
New Mexico	Governor Alone	1993	0.00000000	529.00

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Table 6 - Clemency Probability, By State, With Ranking System Value

New Mexico	Governor Alone	1983	0.00000000	529.00
New Mexico	Governor Alone	1982	0.00000000	529.00
New Mexico	Governor Alone	1981	0.00000000	529.00
New Mexico	Governor Alone	1980	0.00000000	529.00
New Mexico	Governor Alone	1993	0.00000000	529.00
New Mexico	Governor Alone	2005	0.00000000	529.00
New Mexico	Governor Alone	1994	0.00000000	529.00
New Mexico	Governor Alone	2008	0.00000000	529.00
New Mexico	Governor Alone	2006	0.00000000	529.00
New Mexico	Governor Alone	2004	0.00000000	529.00
New Mexico	Governor Alone	2003	0.00000000	529.00
New Mexico	Governor Alone	1995	0.00000000	529.00
New Mexico	Governor Alone	1999	0.00000000	529.00
New Mexico	Governor Alone	2009	0.00000000	529.00
New Mexico	Governor Alone	1998	0.00000000	529.00
New Mexico	Governor Alone	1997	0.00000000	529.00
New Mexico	Governor Alone	2000	0.00000000	529.00
New Mexico	Governor Alone	2007	0.00000000	529.00
New York	Governor Alone	1983	0.00000000	529.00
New York	Governor Alone	1998	0.00000000	529.00
New York	Governor Alone	1999	0.00000000	529.00
New York	Governor Alone	2006	0.00000000	529.00
New York	Governor Alone	2001	0.00000000	529.00
New York	Governor Alone	2000	0.00000000	529.00
North Carolina	Governor Alone	1978	0.00000000	529.00
North Carolina	Governor Alone	1989	0.00000000	529.00
Oregon	Governor Alone	1986	0.00000000	529.00
Oregon	Governor Alone	1989	0.00000000	529.00
Oregon	Governor Alone	1987	0.00000000	529.00
Oregon	Governor Alone	1980	0.00000000	529.00
Oregon	Governor Alone	1979	0.00000000	529.00
Oregon	Governor Alone	2008	0.00000000	529.00
Oregon	Governor Alone	2007	0.00000000	529.00
Oregon	Governor Alone	2006	0.00000000	529.00
Oregon	Governor Alone	2005	0.00000000	529.00
Oregon	Governor Alone	2004	0.00000000	529.00
Oregon	Governor Alone	1995	0.00000000	529.00
Oregon	Governor Alone	2000	0.00000000	529.00
Oregon	Governor Alone	1999	0.00000000	529.00
Oregon	Governor Alone	1998	0.00000000	529.00
Oregon	Governor Alone	2002	0.00000000	529.00
South Carolina	Governor Alone	1989	0.00000000	529.00
South Carolina	Governor Alone	1978	0.00000000	529.00
South Carolina	Governor Alone	1977	0.00000000	529.00
South Carolina	Governor Alone	1994	0.00000000	529.00
South Dakota	Governor Alone	1993	0.00000000	529.00
South Dakota	Governor Alone	1994	0.00000000	529.00
South Dakota	Governor Alone	2008	0.00000000	529.00
South Dakota	Governor Alone	1993	0.00000000	529.00
South Dakota	Governor Alone	2006	0.00000000	529.00
South Dakota	Governor Alone	2005	0.00000000	529.00
South Dakota	Governor Alone	2004	0.00000000	529.00
South Dakota	Governor Alone	1995	0.00000000	529.00
South Dakota	Governor Alone	2001	0.00000000	529.00
South Dakota	Governor Alone	2000	0.00000000	529.00
South Dakota	Governor Alone	1999	0.00000000	529.00
South Dakota	Governor Alone	1998	0.00000000	529.00
South Dakota	Governor Alone	1997	0.00000000	529.00
South Dakota	Governor Alone	2002	0.00000000	529.00
Virginia	Governor Alone	1977	0.00000000	529.00
Virginia	Governor Alone	1978	0.00000000	529.00
Virginia	Governor Alone	1980	0.00000000	529.00
Virginia	Governor Alone	2007	0.00000000	529.00
Washington	Governor Alone	1993	0.00000000	529.00
Washington	Governor Alone	1985	0.00000000	529.00
Washington	Governor Alone	1987	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Washington	Governor Alone	1989	0.00000000	529.00
Washington	Governor Alone	1990	0.00000000	529.00
Washington	Governor Alone	1982	0.00000000	529.00
Washington	Governor Alone	1980	0.00000000	529.00
Washington	Governor Alone	1977	0.00000000	529.00
Washington	Governor Alone	1986	0.00000000	529.00
Washington	Governor Alone	1978	0.00000000	529.00
Washington	Governor Alone	2004	0.00000000	529.00
Washington	Governor Alone	1984	0.00000000	529.00
Washington	Governor Alone	2008	0.00000000	529.00
Washington	Governor Alone	2005	0.00000000	529.00
Washington	Governor Alone	2009	0.00000000	529.00
Washington	Governor Alone	2003	0.00000000	529.00
Washington	Governor Alone	2002	0.00000000	529.00
Washington	Governor Alone	2000	0.00000000	529.00
Washington	Governor Alone	1996	0.00000000	529.00
Wyoming	Governor Alone	1990	0.00000000	529.00
Wyoming	Governor Alone	1989	0.00000000	529.00
Wyoming	Governor Alone	1988	0.00000000	529.00
Wyoming	Governor Alone	1986	0.00000000	529.00
Wyoming	Governor Alone	1985	0.00000000	529.00
Wyoming	Governor Alone	1984	0.00000000	529.00
Wyoming	Governor Alone	1983	0.00000000	529.00
Wyoming	Governor Alone	1982	0.00000000	529.00
Wyoming	Governor Alone	1980	0.00000000	529.00
Wyoming	Governor Alone	2002	0.00000000	529.00
Wyoming	Governor Alone	1979	0.00000000	529.00
Wyoming	Governor Alone	2001	0.00000000	529.00
Wyoming	Governor Alone	2009	0.00000000	529.00
Wyoming	Governor Alone	2007	0.00000000	529.00
Wyoming	Governor Alone	2006	0.00000000	529.00
Wyoming	Governor Alone	2005	0.00000000	529.00
Wyoming	Governor Alone	2000	0.00000000	529.00
Wyoming	Governor Alone	1999	0.00000000	529.00
Wyoming	Governor Alone	1998	0.00000000	529.00
Wyoming	Governor Alone	2004	0.00000000	529.00
California	Governor Alone	2000	0.00000000	529.00
California	Governor Alone	1999	0.00000000	529.00
Virginia	Governor Alone	1989	0.00000000	529.00
Kentucky	Governor Alone	1997	0.00000000	529.00
Virginia	Governor Alone	1984	0.00000000	529.00
Washington	Governor Alone	1998	0.00000000	529.00
Virginia	Governor Alone	2003	0.00000000	529.00
Virginia	Governor Alone	1995	0.00000000	529.00
Arkansas	Governor Alone	1994	0.00000000	529.00
Virginia	Governor Alone	2006	0.00000000	529.00
Virginia	Governor Alone	2009	0.00000000	529.00
Colorado	Governor Alone	1997	0.00000000	529.00
South Dakota	Governor Alone	2007	0.00000000	529.00
Virginia	Governor Alone	1998	0.00000000	529.00
Wyoming	Governor Alone	1993	0.00000000	529.00
California	Governor Alone	1995	0.00000000	529.00
California	Governor Alone	2003	0.00000000	529.00
California	Governor Alone	1993	0.00000000	529.00
California	Governor Alone	2004	0.00000000	529.00
California	Governor Alone	2002	0.00000000	529.00
California	Governor Alone	1996	0.00000000	529.00
California	Governor Alone	1988	0.00000000	529.00
California	Governor Alone	2008	0.00000000	529.00
California	Governor Alone	2006	0.00000000	529.00
California	Governor Alone	1998	0.00000000	529.00
California	Governor Alone	1993	0.00000000	529.00
Alabama	Governor Alone	2003	0.00000000	529.00
California	Governor Alone	1997	0.00000000	529.00
California	Governor Alone	1994	0.00000000	529.00
California	Governor Alone	2001	0.00000000	529.00

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Table 6 - Clemency Probability, By State, With Ranking System Value

North Carolina	Governor Alone	2007	0.00000000	529.00
California	Governor Alone	1993	0.00000000	529.00
California	Governor Alone	1981	0.00000000	529.00
North Carolina	Governor Alone	1996	0.00000000	529.00
South Carolina	Governor Alone	2004	0.00000000	529.00
South Carolina	Governor Alone	1998	0.00000000	529.00
South Carolina	Governor Alone	1996	0.00000000	529.00
South Carolina	Governor Alone	2001	0.00000000	529.00
Mississippi	Governor Alone	2004	0.00000000	529.00
Mississippi	Governor Alone	2006	0.00000000	529.00
Alabama	Governor Alone	2008	0.00000000	529.00
South Carolina	Governor Alone	1995	0.00000000	529.00
Mississippi	Governor Alone	2002	0.00000000	529.00
California	Governor Alone	1987	0.00000000	529.00
California	Governor Alone	1989	0.00000000	529.00
Mississippi	Governor Alone	2001	0.00000000	529.00
California	Governor Alone	1982	0.00000000	529.00
California	Governor Alone	2007	0.00000000	529.00
Alabama	Governor Alone	1990	0.00000000	529.00
North Carolina	Governor Alone	1985	0.00000000	529.00
California	Governor Alone	2005	0.00000000	529.00
Virginia	Governor Alone	1993	0.00000000	529.00
Virginia	Governor Alone	1993	0.00000000	529.00
California	Governor Alone	2009	0.00000000	529.00
Alabama	Governor Alone	1983	0.00000000	529.00
Alabama	Governor Alone	2002	0.00000000	529.00
Virginia	Governor Alone	1990	0.00000000	529.00
South Carolina	Governor Alone	1993	0.00000000	529.00
California	Governor Alone	1990	0.00000000	529.00
California	Governor Alone	1984	0.00000000	529.00
South Carolina	Governor Alone	1990	0.00000000	529.00
South Carolina	Governor Alone	1985	0.00000000	529.00
Arkansas	Governor Alone	2000	0.00000000	529.00
Arkansas	Governor Alone	1997	0.00000000	529.00
Arkansas	Governor Alone	2003	0.00000000	529.00
Arkansas	Governor Alone	2001	0.00000000	529.00
Arkansas	Governor Alone	1998	0.00000000	529.00
Alabama	Governor Alone	2007	0.00000000	529.00
Arkansas	Governor Alone	2009	0.00000000	529.00
Kentucky	Governor Alone	1999	0.00000000	529.00
Virginia	Governor Alone	1988	0.00000000	529.00
Arkansas	Governor Alone	1995	0.00000000	529.00
North Carolina	Governor Alone	2009	0.00000000	529.00
Alabama	Governor Alone	1985	0.00000000	529.00
Alabama	Governor Alone	2004	0.00000000	529.00
Arkansas	Governor Alone	2005	0.00000000	529.00
Virginia	Governor Alone	1987	0.00000000	529.00
Alabama	Governor Alone	2000	0.00000000	529.00
California	Governor Alone	1983	0.00000000	529.00
Kentucky	Governor Alone	2008	0.00000000	529.00
Kentucky	Governor Alone	2002	0.00000000	529.00
Alabama	Governor Alone	1998	0.00000000	529.00
North Carolina	Governor Alone	1995	0.00000000	529.00
Kentucky	Governor Alone	2009	0.00000000	529.00
Arkansas	Governor Alone	1993	0.00000000	529.00
Kentucky	Governor Alone	2004	0.00000000	529.00
Mississippi	Governor Alone	2003	0.00000000	529.00
Alabama	Governor Alone	1997	0.00000000	529.00
North Carolina	Governor Alone	1998	0.00000000	529.00
Alabama	Governor Alone	2001	0.00000000	529.00
Mississippi	Governor Alone	2000	0.00000000	529.00
South Carolina	Governor Alone	2008	0.00000000	529.00
Kentucky	Governor Alone	1993	0.00000000	529.00
Mississippi	Governor Alone	2009	0.00000000	529.00
Alabama	Governor Alone	1993	0.00000000	529.00
Kentucky	Governor Alone	1996	0.00000000	529.00

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Table 6 - Clemency Probability, By State, With Ranking System Value

Virginia	Governor Alone	1985	0.00000000	529.00
North Carolina	Governor Alone	2006	0.00000000	529.00
Arkansas	Governor Alone	1985	0.00000000	529.00
Kentucky	Governor Alone	1995	0.00000000	529.00
North Carolina	Governor Alone	1982	0.00000000	529.00
Oregon	Governor Alone	2003	0.00000000	529.00
South Carolina	Governor Alone	1983	0.00000000	529.00
Alabama	Governor Alone	1986	0.00000000	529.00
Virginia	Governor Alone	2004	0.00000000	529.00
North Carolina	Governor Alone	2008	0.00000000	529.00
Oregon	Governor Alone	2001	0.00000000	529.00
Alabama	Governor Alone	2009	0.00000000	529.00
North Carolina	Governor Alone	2005	0.00000000	529.00
North Carolina	Governor Alone	1987	0.00000000	529.00
California	Governor Alone	1986	0.00000000	529.00
North Carolina	Governor Alone	1997	0.00000000	529.00
Kentucky	Governor Alone	1985	0.00000000	529.00
South Carolina	Governor Alone	2002	0.00000000	529.00
Virginia	Governor Alone	1993	0.00000000	529.00
South Carolina	Governor Alone	2005	0.00000000	529.00
South Carolina	Governor Alone	1997	0.00000000	529.00
Mississippi	Governor Alone	2005	0.00000000	529.00
South Carolina	Governor Alone	1993	0.00000000	529.00
South Carolina	Governor Alone	2000	0.00000000	529.00
Alabama	Governor Alone	2006	0.00000000	529.00
North Carolina	Governor Alone	1986	0.00000000	529.00
South Carolina	Governor Alone	1981	0.00000000	529.00
Oregon	Governor Alone	1997	0.00000000	529.00
Mississippi	Governor Alone	2008	0.00000000	529.00
South Carolina	Governor Alone	1993	0.00000000	529.00
Arkansas	Governor Alone	1996	0.00000000	529.00
North Carolina	Governor Alone	2003	0.00000000	529.00
Kentucky	Governor Alone	2000	0.00000000	529.00
Arkansas	Governor Alone	2004	0.00000000	529.00
Virginia	Governor Alone	1982	0.00000000	529.00
Alabama	Governor Alone	1988	0.00000000	529.00
Mississippi	Governor Alone	1996	0.00000000	529.00
Mississippi	Governor Alone	1983	0.00000000	529.00
South Carolina	Governor Alone	2009	0.00000000	529.00
Virginia	Governor Alone	2000	0.00000000	529.00
Alabama	Governor Alone	1989	0.00000000	529.00
Alabama	Governor Alone	1995	0.00000000	529.00
Arkansas	Governor Alone	2006	0.00000000	529.00
Alabama	Governor Alone	1993	0.00000000	529.00
South Carolina	Governor Alone	1984	0.00000000	529.00
South Carolina	Governor Alone	1999	0.00000000	529.00
Virginia	Governor Alone	1981	0.00000000	529.00
Virginia	Governor Alone	1986	0.00000000	529.00
Alabama	Governor Alone	2005	0.00000000	529.00
Kentucky	Governor Alone	1987	0.00000000	529.00
Kentucky	Governor Alone	1988	0.00000000	529.00
New Jersey	Governor Alone	2001	0.00000000	529.00
Mississippi	Governor Alone	1990	0.00000000	529.00
Alabama	Governor Alone	1996	0.00000000	529.00
Alabama	Governor Alone	1994	0.00000000	529.00
North Carolina	Governor Alone	1980	0.00000000	529.00
Oregon	Governor Alone	1988	0.00000000	529.00
South Carolina	Governor Alone	1987	0.00000000	529.00
North Carolina	Governor Alone	2004	0.00000000	529.00
Arkansas	Governor Alone	1987	0.00000000	529.00
New Jersey	Governor Alone	1998	0.00000000	529.00
New Jersey	Governor Alone	1999	0.00000000	529.00
South Carolina	Governor Alone	1980	0.00000000	529.00
Mississippi	Governor Alone	1985	0.00000000	529.00
Arkansas	Governor Alone	1988	0.00000000	529.00
Virginia	Governor Alone	2002	0.00000000	529.00

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Table 6 - Clemency Probability, By State, With Ranking System Value

California	Governor Alone	1985	0.00000000	529.00
Mississippi	Governor Alone	1998	0.00000000	529.00
Mississippi	Governor Alone	2007	0.00000000	529.00
Washington	Governor Alone	1999	0.00000000	529.00
Alabama	Governor Alone	1987	0.00000000	529.00
Mississippi	Governor Alone	1987	0.00000000	529.00
Mississippi	Governor Alone	1993	0.00000000	529.00
Mississippi	Governor Alone	1995	0.00000000	529.00
Arkansas	Governor Alone	1979	0.00000000	529.00
Arkansas	Governor Alone	1982	0.00000000	529.00
South Carolina	Governor Alone	2003	0.00000000	529.00
Alabama	Governor Alone	1980	0.00000000	529.00
Arkansas	Governor Alone	1983	0.00000000	529.00
North Carolina	Governor Alone	1993	0.00000000	529.00
Washington	Governor Alone	1994	0.00000000	529.00
Oregon	Governor Alone	1996	0.00000000	529.00
Oregon	Governor Alone	2009	0.00000000	529.00
Alabama	Governor Alone	1993	0.00000000	529.00
Mississippi	Governor Alone	1994	0.00000000	529.00
New Jersey	Governor Alone	2005	0.00000000	529.00
New Jersey	Governor Alone	1995	0.00000000	529.00
Virginia	Governor Alone	1983	0.00000000	529.00
Washington	Governor Alone	1993	0.00000000	529.00
South Carolina	Governor Alone	2007	0.00000000	529.00
Kentucky	Governor Alone	1993	0.00000000	529.00
Mississippi	Governor Alone	1988	0.00000000	529.00
South Carolina	Governor Alone	1986	0.00000000	529.00
Mississippi	Governor Alone	1986	0.00000000	529.00
New Jersey	Governor Alone	1987	0.00000000	529.00
New Jersey	Governor Alone	2006	0.00000000	529.00
New Jersey	Governor Alone	1994	0.00000000	529.00
Washington	Governor Alone	1995	0.00000000	529.00
Washington	Governor Alone	2006	0.00000000	529.00
Mississippi	Governor Alone	1989	0.00000000	529.00
California	Governor Alone	1980	0.00000000	529.00
Mississippi	Governor Alone	1999	0.00000000	529.00
Oregon	Governor Alone	1994	0.00000000	529.00
Arkansas	Governor Alone	1993	0.00000000	529.00
Virginia	Governor Alone	1979	0.00000000	529.00
Washington	Governor Alone	2007	0.00000000	529.00
North Carolina	Governor Alone	1994	0.00000000	529.00
Mississippi	Governor Alone	1984	0.00000000	529.00
North Carolina	Governor Alone	1988	0.00000000	529.00
Kentucky	Governor Alone	1989	0.00000000	529.00
Kentucky	Governor Alone	1994	0.00000000	529.00
Kentucky	Governor Alone	2001	0.00000000	529.00
Arkansas	Governor Alone	1977	0.00000000	529.00
Washington	Governor Alone	1988	0.00000000	529.00
Arkansas	Governor Alone	1990	0.00000000	529.00
Arkansas	Governor Alone	1986	0.00000000	529.00
Kentucky	Governor Alone	1982	0.00000000	529.00
Oregon	Governor Alone	1993	0.00000000	529.00
North Carolina	Governor Alone	1984	0.00000000	529.00
North Carolina	Governor Alone	1990	0.00000000	529.00
South Carolina	Governor Alone	2006	0.00000000	529.00
California	Governor Alone	1979	0.00000000	529.00
Mississippi	Governor Alone	1980	0.00000000	529.00
Washington	Governor Alone	1997	0.00000000	529.00
Arkansas	Governor Alone	1981	0.00000000	529.00
North Carolina	Governor Alone	1981	0.00000000	529.00
Arkansas	Governor Alone	1993	0.00000000	529.00
New Jersey	Governor Alone	1996	0.00000000	529.00
North Carolina	Governor Alone	1983	0.00000000	529.00
Washington	Governor Alone	1993	0.00000000	529.00
Alabama	Governor Alone	1979	0.00000000	529.00
South Carolina	Governor Alone	1988	0.00000000	529.00

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Table 6 - Clemency Probability, By State, With Ranking System Value

Colorado	Governor Alone	2002	0.00000000	529.00
New Mexico	Governor Alone	1984	0.00000000	529.00
New York	Governor Alone	2003	0.00000000	529.00
New York	Governor Alone	2002	0.00000000	529.00
Mississippi	Governor Alone	1993	0.00000000	529.00
New Jersey	Governor Alone	2002	0.00000000	529.00
Virginia	Governor Alone	2001	0.00000000	529.00
New Jersey	Governor Alone	1989	0.00000000	529.00
North Carolina	Governor Alone	1993	0.00000000	529.00
New Mexico	Governor Alone	1996	0.00000000	529.00
South Dakota	Governor Alone	2003	0.00000000	529.00
Washington	Governor Alone	1983	0.00000000	529.00
New Mexico	Governor Alone	2001	0.00000000	529.00
California	Governor Alone	1977	0.00000000	529.00
Colorado	Governor Alone	1993	0.00000000	529.00
Colorado	Governor Alone	1988	0.00000000	529.00
Colorado	Governor Alone	1998	0.00000000	529.00
New Jersey	Governor Alone	1993	0.00000000	529.00
North Carolina	Governor Alone	1993	0.00000000	529.00
South Carolina	Governor Alone	1982	0.00000000	529.00
New Jersey	Governor Alone	2004	0.00000000	529.00
Oregon	Governor Alone	1993	0.00000000	529.00
New Jersey	Governor Alone	1988	0.00000000	529.00
Kentucky	Governor Alone	1980	0.00000000	529.00
Washington	Governor Alone	1979	0.00000000	529.00
Washington	Governor Alone	2001	0.00000000	529.00
Oregon	Governor Alone	1993	0.00000000	529.00
Colorado	Governor Alone	2005	0.00000000	529.00
South Carolina	Governor Alone	1979	0.00000000	529.00
South Dakota	Governor Alone	2009	0.00000000	529.00
Wyoming	Governor Alone	1987	0.00000000	529.00
North Carolina	Governor Alone	1979	0.00000000	529.00
Colorado	Governor Alone	1984	0.00000000	529.00
Colorado	Governor Alone	1983	0.00000000	529.00
Colorado	Governor Alone	2007	0.00000000	529.00
Colorado	Governor Alone	2003	0.00000000	529.00
New Mexico	Governor Alone	1989	0.00000000	529.00
New Mexico	Governor Alone	2002	0.00000000	529.00
New York	Governor Alone	2005	0.00000000	529.00
North Carolina	Governor Alone	1977	0.00000000	529.00
South Dakota	Governor Alone	1996	0.00000000	529.00
Wyoming	Governor Alone	1993	0.00000000	529.00
Wyoming	Governor Alone	2008	0.00000000	529.00
Wyoming	Governor Alone	2003	0.00000000	529.00
New Jersey	Governor Alone	1990	0.00000000	529.00
Oregon	Governor Alone	1990	0.00000000	529.00
New Jersey	Governor Alone	1993	0.00000000	529.00
New York	Governor Alone	2004	0.00000000	529.00
North Carolina	Governor Alone	2001	0.00450450	1060.00
North Carolina	Governor Alone	2000	0.00460829	1061.00
North Carolina	Governor Alone	2002	0.00478469	1063.00
North Carolina	Governor Alone	1999	0.00483092	1064.00
Alabama	Governor Alone	1999	0.00546448	1066.00
Virginia	Governor Alone	1996	0.01724138	1087.50
Virginia	Governor Alone	1994	0.01724138	1087.50
Virginia	Governor Alone	1997	0.01886792	1090.00
Virginia	Governor Alone	1999	0.02173913	1092.00
Arkansas	Governor Alone	1999	0.02222222	1093.00
Kentucky	Governor Alone	2007	0.02500000	1094.00
Kentucky	Governor Alone	2003	0.02777778	1095.50
Virginia	Governor Alone	2005	0.04347826	1099.00
Virginia	Governor Alone	2008	0.05000000	1100.00
New Jersey	Governor Alone	2007	1.00000000	1106.00
New Mexico	Governor Alone	1986	1.00000000	1107.00
Arizona	Governor With Binding Recommendation	2001	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1980	0.00000000	529.00

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Table 6 - Clemency Probability, By State, With Ranking System Value

Delaware	Governor With Binding Recommendation	1993	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1989	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1988	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1987	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1986	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1984	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1983	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1981	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1979	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1978	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1982	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2007	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2008	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2003	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1997	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1998	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1993	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1980	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1978	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1979	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2006	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1979	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1977	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1982	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1979	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1980	0.00000000	529.00
Rhode Island	Governor With Binding Recommendation	1977	0.00000000	529.00
Rhode Island	Governor With Binding Recommendation	1978	0.00000000	529.00
Texas	Governor With Binding Recommendation	1996	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2007	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1996	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2005	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1995	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1994	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1993	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1999	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1993	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1996	0.00000000	529.00
Texas	Governor With Binding Recommendation	2003	0.00000000	529.00
Texas	Governor With Binding Recommendation	1997	0.00000000	529.00
Texas	Governor With Binding Recommendation	1994	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1993	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1993	0.00000000	529.00
Texas	Governor With Binding Recommendation	1988	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2009	0.00000000	529.00
Texas	Governor With Binding Recommendation	2000	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1989	0.00000000	529.00
Texas	Governor With Binding Recommendation	1999	0.00000000	529.00
Texas	Governor With Binding Recommendation	2008	0.00000000	529.00
Texas	Governor With Binding Recommendation	1993	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2007	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1987	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1999	0.00000000	529.00
Texas	Governor With Binding Recommendation	1986	0.00000000	529.00
Texas	Governor With Binding Recommendation	2001	0.00000000	529.00
Texas	Governor With Binding Recommendation	1993	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1998	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1987	0.00000000	529.00
Texas	Governor With Binding Recommendation	2006	0.00000000	529.00
Texas	Governor With Binding Recommendation	2002	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1995	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1996	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1998	0.00000000	529.00
Texas	Governor With Binding Recommendation	1989	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2000	0.00000000	529.00
Texas	Governor With Binding Recommendation	1984	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Pennsylvania	Governor With Binding Recommendation	2000	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1990	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	2002	0.00000000	529.00
Texas	Governor With Binding Recommendation	2004	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1995	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1993	0.00000000	529.00
Florida	Governor With Binding Recommendation	2007	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2007	0.00000000	529.00
Texas	Governor With Binding Recommendation	1990	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1997	0.00000000	529.00
Texas	Governor With Binding Recommendation	1985	0.00000000	529.00
Texas	Governor With Binding Recommendation	1995	0.00000000	529.00
Florida	Governor With Binding Recommendation	2004	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1993	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1998	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2001	0.00000000	529.00
Florida	Governor With Binding Recommendation	2006	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2006	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1989	0.00000000	529.00
Florida	Governor With Binding Recommendation	2005	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2003	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1996	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1990	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1985	0.00000000	529.00
Texas	Governor With Binding Recommendation	2009	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1993	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2008	0.00000000	529.00
Florida	Governor With Binding Recommendation	2003	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1986	0.00000000	529.00
Texas	Governor With Binding Recommendation	1980	0.00000000	529.00
Florida	Governor With Binding Recommendation	2000	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1993	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1980	0.00000000	529.00
Florida	Governor With Binding Recommendation	2008	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1993	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1993	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1999	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2000	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2008	0.00000000	529.00
Texas	Governor With Binding Recommendation	1993	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1986	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2001	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	2006	0.00000000	529.00
Texas	Governor With Binding Recommendation	1987	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1999	0.00000000	529.00
Florida	Governor With Binding Recommendation	2001	0.00000000	529.00
Florida	Governor With Binding Recommendation	1986	0.00000000	529.00
Florida	Governor With Binding Recommendation	1984	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2006	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1988	0.00000000	529.00
Florida	Governor With Binding Recommendation	1996	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2002	0.00000000	529.00
Florida	Governor With Binding Recommendation	2002	0.00000000	529.00
Florida	Governor With Binding Recommendation	2009	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1994	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1994	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1982	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1983	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1986	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1988	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2005	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2002	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1997	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1994	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1984	0.00000000	529.00
Florida	Governor With Binding Recommendation	1998	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Florida	Governor With Binding Recommendation	1990	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	2003	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1990	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1989	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1988	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2008	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1999	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2009	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	2007	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	2009	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1993	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1994	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1997	0.00000000	529.00
Texas	Governor With Binding Recommendation	1979	0.00000000	529.00
Florida	Governor With Binding Recommendation	1995	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1998	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2004	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2005	0.00000000	529.00
Florida	Governor With Binding Recommendation	1993	0.00000000	529.00
Florida	Governor With Binding Recommendation	1997	0.00000000	529.00
Florida	Governor With Binding Recommendation	1985	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	2000	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1997	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1993	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2002	0.00000000	529.00
Florida	Governor With Binding Recommendation	1978	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2004	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2009	0.00000000	529.00
Florida	Governor With Binding Recommendation	1994	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1978	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1984	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1980	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1995	0.00000000	529.00
Florida	Governor With Binding Recommendation	1982	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2004	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	2003	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1985	0.00000000	529.00
Florida	Governor With Binding Recommendation	1987	0.00000000	529.00
Florida	Governor With Binding Recommendation	1993	0.00000000	529.00
Florida	Governor With Binding Recommendation	1993	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1996	0.00000000	529.00
Texas	Governor With Binding Recommendation	2005	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	2005	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1981	0.00000000	529.00
Florida	Governor With Binding Recommendation	1999	0.00000000	529.00
Texas	Governor With Binding Recommendation	1978	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1981	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1988	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1987	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1979	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1981	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1990	0.00000000	529.00
Florida	Governor With Binding Recommendation	1988	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	2005	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1995	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1987	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1984	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1986	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1985	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1985	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1993	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1977	0.00000000	529.00
Florida	Governor With Binding Recommendation	1989	0.00000000	529.00
Florida	Governor With Binding Recommendation	1977	0.00000000	529.00
Texas	Governor With Binding Recommendation	1983	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2009	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Arizona	Governor With Binding Recommendation	1984	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2006	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2000	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1982	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1983	0.00000000	529.00
Texas	Governor With Binding Recommendation	1977	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2002	0.00000000	529.00
Texas	Governor With Binding Recommendation	1981	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1982	0.00000000	529.00
Texas	Governor With Binding Recommendation	1982	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1990	0.00000000	529.00
Louisiana	Governor With Binding Recommendation	1981	0.00000000	529.00
Oklahoma	Governor With Binding Recommendation	1983	0.00000000	529.00
Arizona	Governor With Binding Recommendation	2004	0.00000000	529.00
Pennsylvania	Governor With Binding Recommendation	1983	0.00000000	529.00
Delaware	Governor With Binding Recommendation	2001	0.00000000	529.00
Delaware	Governor With Binding Recommendation	1985	0.00000000	529.00
Arizona	Governor With Binding Recommendation	1978	0.00000000	529.00
Texas	Governor With Binding Recommendation	1998	0.00211864	1058.00
Texas	Governor With Binding Recommendation	2007	0.00250627	1059.00
Florida	Governor With Binding Recommendation	1983	0.00512821	1065.00
Florida	Governor With Binding Recommendation	1981	0.00617284	1070.00
Florida	Governor With Binding Recommendation	1980	0.00649351	1071.00
Florida	Governor With Binding Recommendation	1979	0.00714286	1072.00
Oklahoma	Governor With Binding Recommendation	2001	0.00757576	1073.00
Oklahoma	Governor With Binding Recommendation	2004	0.01020408	1079.00
Oklahoma	Governor With Binding Recommendation	2008	0.01136364	1082.50
Louisiana	Governor With Binding Recommendation	2003	0.01136364	1082.50
Louisiana	Governor With Binding Recommendation	1989	0.02777778	1095.50
Idaho	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1989	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1990	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1984	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1983	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1982	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1980	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1978	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2009	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2008	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2006	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2000	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1999	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1997	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1979	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1977	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1978	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	2007	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	2006	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	2005	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	2004	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	2009	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1987	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1979	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1983	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1982	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1978	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1986	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2000	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2003	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	1998	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	1999	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2001	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2006	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2007	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2009	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

[illegible]

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

[illegible]

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Idaho	Governor With Non-Binding Recommendation	1994	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	2001	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1998	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1995	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1996	0.00000000	529.00
Ohio	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1990	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	2002	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1986	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1998	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1997	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1995	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1999	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2007	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1999	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1998	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	2003	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	2007	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1998	0.00000000	529.00
Missouri	Governor With Non-Binding Recommendation	2006	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1983	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1988	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	2008	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Missouri	Governor With Non-Binding Recommendation	2007	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1980	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	2009	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1999	0.00000000	529.00
Missouri	Governor With Non-Binding Recommendation	1986	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1984	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1985	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1986	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1982	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1987	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	2008	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1984	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1989	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	2001	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1984	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1989	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1995	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1995	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1996	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Illinois	Governor With Non-Binding Recommendation	1980	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2001	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	1981	0.00000000	529.00
Missouri	Governor With Non-Binding Recommendation	1997	0.00000000	529.00
Tennessee	Governor With Non-Binding Recommendation	2008	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2003	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	2006	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1985	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2008	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1981	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1993	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	2002	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	1988	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	1996	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	1995	0.00000000	529.00
Indiana	Governor With Non-Binding Recommendation	1980	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	2006	0.00000000	529.00
Kansas	Governor With Non-Binding Recommendation	2002	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Maryland	Governor With Non-Binding Recommendation	2007	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	2003	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	2004	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1988	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	2005	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	2004	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	1983	0.00000000	529.00
Missouri	Governor With Non-Binding Recommendation	2003	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	1990	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	1979	0.00000000	529.00
Montana	Governor With Non-Binding Recommendation	2006	0.00000000	529.00
Maryland	Governor With Non-Binding Recommendation	2003	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1981	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1979	0.00000000	529.00
Idaho	Governor With Non-Binding Recommendation	1977	0.00000000	529.00
Ohio	Governor With Non-Binding Recommendation	2003	0.00469484	1062.00
Ohio	Governor With Non-Binding Recommendation	2008	0.00571429	1067.00
Ohio	Governor With Non-Binding Recommendation	2009	0.00584795	1068.00
Illinois	Governor With Non-Binding Recommendation	1996	0.00613497	1069.00
Tennessee	Governor With Non-Binding Recommendation	2007	0.01010101	1077.50
Missouri	Governor With Non-Binding Recommendation	1999	0.01075269	1080.50
Missouri	Governor With Non-Binding Recommendation	1993	0.01176471	1084.00
Missouri	Governor With Non-Binding Recommendation	1993	0.01190476	1085.00
Missouri	Governor With Non-Binding Recommendation	1993	0.01265823	1089.00
Indiana	Governor With Non-Binding Recommendation	2004	0.03571429	1097.00
Indiana	Governor With Non-Binding Recommendation	2005	0.03846154	1098.00
Idaho	Governor With Non-Binding Recommendation	1996	0.05263158	1101.00
Maryland	Governor With Non-Binding Recommendation	1987	0.05555556	1102.00
Maryland	Governor With Non-Binding Recommendation	2000	0.05882353	1103.00
Montana	Governor With Non-Binding Recommendation	1983	0.20000000	1104.00
Illinois	Governor With Non-Binding Recommendation	2003	0.98816568	1105.00
Connecticut	State Board	1987	0.00000000	529.00
Connecticut	State Board	1989	0.00000000	529.00
Connecticut	State Board	1988	0.00000000	529.00
Connecticut	State Board	1990	0.00000000	529.00
Connecticut	State Board	1995	0.00000000	529.00
Connecticut	State Board	2008	0.00000000	529.00
Connecticut	State Board	1993	0.00000000	529.00
Connecticut	State Board	2009	0.00000000	529.00
Connecticut	State Board	2007	0.00000000	529.00
Connecticut	State Board	2003	0.00000000	529.00
Connecticut	State Board	2001	0.00000000	529.00
Connecticut	State Board	1999	0.00000000	529.00
Connecticut	State Board	1998	0.00000000	529.00
Connecticut	State Board	1997	0.00000000	529.00
Connecticut	State Board	2002	0.00000000	529.00
Georgia	State Board	1997	0.00000000	529.00
Georgia	State Board	2000	0.00000000	529.00
Nebraska	State Board	2003	0.00000000	529.00
Nebraska	State Board	2009	0.00000000	529.00
Nebraska	State Board	2008	0.00000000	529.00
Nebraska	State Board	2007	0.00000000	529.00
Nebraska	State Board	2005	0.00000000	529.00
Nebraska	State Board	1978	0.00000000	529.00
Nebraska	State Board	1980	0.00000000	529.00
Nebraska	State Board	1982	0.00000000	529.00
Nebraska	State Board	1984	0.00000000	529.00
Nebraska	State Board	1986	0.00000000	529.00
Nebraska	State Board	1981	0.00000000	529.00
Nebraska	State Board	1993	0.00000000	529.00
Nebraska	State Board	2002	0.00000000	529.00
Nebraska	State Board	2000	0.00000000	529.00
Nebraska	State Board	2004	0.00000000	529.00
Nebraska	State Board	1998	0.00000000	529.00
Nebraska	State Board	1995	0.00000000	529.00
Nebraska	State Board	1993	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Nevada	State Board	1982	0.00000000	529.00
Nevada	State Board	1980	0.00000000	529.00
Nevada	State Board	1997	0.00000000	529.00
Nevada	State Board	1993	0.00000000	529.00
Utah	State Board	1986	0.00000000	529.00
Utah	State Board	1984	0.00000000	529.00
Utah	State Board	1990	0.00000000	529.00
Utah	State Board	1979	0.00000000	529.00
Utah	State Board	1989	0.00000000	529.00
Utah	State Board	1983	0.00000000	529.00
Utah	State Board	1982	0.00000000	529.00
Utah	State Board	1978	0.00000000	529.00
Utah	State Board	1993	0.00000000	529.00
Utah	State Board	2007	0.00000000	529.00
Utah	State Board	2009	0.00000000	529.00
Utah	State Board	2008	0.00000000	529.00
Utah	State Board	1993	0.00000000	529.00
Utah	State Board	2006	0.00000000	529.00
Utah	State Board	2004	0.00000000	529.00
Utah	State Board	2002	0.00000000	529.00
Utah	State Board	2000	0.00000000	529.00
Utah	State Board	1998	0.00000000	529.00
Utah	State Board	1997	0.00000000	529.00
Utah	State Board	1995	0.00000000	529.00
Utah	State Board	2001	0.00000000	529.00
Nevada	State Board	1990	0.00000000	529.00
Nevada	State Board	2004	0.00000000	529.00
Nebraska	State Board	1997	0.00000000	529.00
Nebraska	State Board	1996	0.00000000	529.00
Utah	State Board	1999	0.00000000	529.00
Utah	State Board	1988	0.00000000	529.00
Connecticut	State Board	2005	0.00000000	529.00
Utah	State Board	1987	0.00000000	529.00
Utah	State Board	1977	0.00000000	529.00
Georgia	State Board	1999	0.00000000	529.00
Georgia	State Board	2007	0.00000000	529.00
Georgia	State Board	2006	0.00000000	529.00
Georgia	State Board	1981	0.00000000	529.00
Nevada	State Board	2007	0.00000000	529.00
Nevada	State Board	2006	0.00000000	529.00
Nevada	State Board	1995	0.00000000	529.00
Nevada	State Board	1993	0.00000000	529.00
Georgia	State Board	2003	0.00000000	529.00
Georgia	State Board	1984	0.00000000	529.00
Nevada	State Board	1989	0.00000000	529.00
Nevada	State Board	2001	0.00000000	529.00
Nevada	State Board	1999	0.00000000	529.00
Nevada	State Board	2003	0.00000000	529.00
Nevada	State Board	2005	0.00000000	529.00
Nevada	State Board	2008	0.00000000	529.00
Nevada	State Board	2009	0.00000000	529.00
Georgia	State Board	2001	0.00000000	529.00
Georgia	State Board	2005	0.00000000	529.00
Nevada	State Board	1986	0.00000000	529.00
Georgia	State Board	2009	0.00000000	529.00
Georgia	State Board	1982	0.00000000	529.00
Georgia	State Board	1995	0.00000000	529.00
Georgia	State Board	1987	0.00000000	529.00
Nevada	State Board	1998	0.00000000	529.00
Nevada	State Board	1996	0.00000000	529.00
Georgia	State Board	1993	0.00000000	529.00
Nevada	State Board	1983	0.00000000	529.00
Nevada	State Board	1988	0.00000000	529.00
Nevada	State Board	1993	0.00000000	529.00
Georgia	State Board	1994	0.00000000	529.00
Georgia	State Board	1978	0.00000000	529.00

Appendix

Table 6 - Clemency Probability, By State, With Ranking System Value

Nevada	State Board	1987	0.00000000	529.00
Georgia	State Board	1986	0.00000000	529.00
Nevada	State Board	2000	0.00000000	529.00
Georgia	State Board	1993	0.00000000	529.00
Georgia	State Board	1996	0.00000000	529.00
Nebraska	State Board	1987	0.00000000	529.00
Nebraska	State Board	1988	0.00000000	529.00
Georgia	State Board	1998	0.00000000	529.00
Nebraska	State Board	1985	0.00000000	529.00
Nebraska	State Board	1989	0.00000000	529.00
Georgia	State Board	1983	0.00000000	529.00
Georgia	State Board	1993	0.00000000	529.00
Nebraska	State Board	1990	0.00000000	529.00
Nebraska	State Board	1993	0.00000000	529.00
Nevada	State Board	1994	0.00000000	529.00
Georgia	State Board	1985	0.00000000	529.00
Nebraska	State Board	1994	0.00000000	529.00
Utah	State Board	1993	0.00000000	529.00
Nevada	State Board	1985	0.00000000	529.00
Georgia	State Board	1979	0.00000000	529.00
Georgia	State Board	1989	0.00000000	529.00
Utah	State Board	1994	0.00000000	529.00
Utah	State Board	2003	0.00000000	529.00
Utah	State Board	1996	0.00000000	529.00
Nevada	State Board	1984	0.00000000	529.00
Nebraska	State Board	2006	0.00000000	529.00
Utah	State Board	2005	0.00000000	529.00
Georgia	State Board	1980	0.00000000	529.00
Nebraska	State Board	1979	0.00000000	529.00
Nevada	State Board	1979	0.00000000	529.00
Connecticut	State Board	2006	0.00000000	529.00
Connecticut	State Board	2004	0.00000000	529.00
Connecticut	State Board	2000	0.00000000	529.00
Nevada	State Board	1981	0.00000000	529.00
Nevada	State Board	1978	0.00000000	529.00
Utah	State Board	1985	0.00000000	529.00
Nebraska	State Board	1983	0.00000000	529.00
Nebraska	State Board	1999	0.00000000	529.00
Connecticut	State Board	1994	0.00000000	529.00
Connecticut	State Board	1996	0.00000000	529.00
Nebraska	State Board	1977	0.00000000	529.00
Nevada	State Board	1977	0.00000000	529.00
Utah	State Board	1981	0.00000000	529.00
Nebraska	State Board	2001	0.00000000	529.00
Utah	State Board	1980	0.00000000	529.00
Georgia	State Board	2002	0.00854701	1074.00
Georgia	State Board	2004	0.00892857	1075.00
Georgia	State Board	2008	0.00917431	1076.00
Georgia	State Board	1990	0.01010101	1077.50
Georgia	State Board	1988	0.01075269	1080.50
Nevada	State Board	2002	0.01190476	1086.00
Georgia	State Board	1977	0.02000000	1091.00

Source: Bureau of Justice Statistics, Capital Punishment Bulletins, 1977 through 2009