

Texas Death Penalty Developments in 2008
The Year in Review

Texas Coalition to Abolish the Death Penalty

December 2008

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The Texas Coalition to Abolish the Death Penalty (TCADP) publishes an annual report on the death penalty in Texas in order to inform citizens of the state about events and issues associated with capital punishment in the past year. This report on developments in 2008 presents information about executions, stays, commutations, and new death sentences; judicial decisions; exonerations; and other developments affecting the criminal justice system in the nation’s most active death penalty state. This is the second such annual report published by TCADP. It is available online at <http://www.tcadp.org/uploads/documents/2008annualreport.pdf>.

Executions

A *de facto* moratorium on executions nationwide existed from September 26, 2007 until April 16, 2008 while the U.S. Supreme Court considered the constitutionality of the lethal injection protocol used by the majority of death penalty states. On April 16, the Court ruled in *Baze v. Rees* that the current protocol used by Kentucky (and other states, including Texas) does not constitute cruel and unusual punishment. The decision lifted all stays in effect at the time and paved the way for the resumption of executions, the first of which took place in Georgia on May 6, 2008. Texas’ first execution of the year took place on June 11, 2008, when Karl Chamberlain was put to death. The State executed a total of 18 people in 5 months, accounting for nearly half of all executions that took place in the United States this year.

Only eight other states carried out executions in 2008; none executed more than four people. Texas now has executed a total of 423 people since 1982 (of 1,136 executions nationwide since 1977).

Of the 18 people executed in Texas in 2008, 9 were African American, 6 were white, and 3 were Latino/Hispanic. All were male. Four inmates had been convicted in Harris County, which alone accounts for more executions (106) than any state in the country besides Texas. Dallas County had convicted 7 of the 18 executed inmates in 2008; it accounts for 40 executions overall.

U.S. Executions in 2008 (May 6 – December 5)	
Texas	18
Virginia	4
Georgia	3
South Carolina	3
Oklahoma	2
Mississippi	2
Florida	2
Ohio	2
Kentucky	1
Total	37

One of the most controversial executions in 2008 involved the case of **Jose Medellin**, a Mexican national who was denied his right to contact Mexican consular officials upon his arrest in 1993 for the brutal rape and murder of Jennifer Ertman and Elizabeth Pena. In 2004, the International Court of Justice (ICJ) ruled in a case brought by the Mexican government – the *Avena* judgment – that the United States had violated its obligations under the Vienna Convention on Consular Relations and had failed to provide consular notification to 51 Mexican nationals on death rows throughout the United States. The ICJ’s ruling called on U.S. courts to review the cases, but officials in Texas refused to comply, arguing that Medellin and others had neglected to raise the issue during their original trials.

The U.S. Supreme Court first heard the Medellin case in 2005, but before it issued a decision, President George W. Bush ordered the respective state courts to provide the review required by the ICJ. The Supreme Court then dismissed Medellin’s case to allow time for this review. Texas courts again refused, claiming that President Bush did not possess the authority to give such an order. Medellin then appealed once more to the Supreme Court, which granted certiorari to consider the extent of President Bush’s power to order compliance with the ICJ’s ruling; the Court heard the case in October 2007.

On March 25, 2008, the Supreme Court ruled 6-3 in *Medellin v. Texas* that the President does not have the authority to order states to comply with rulings by the ICJ. The Court also found that the ICJ’s

judgment was not enforceable by federal law and could not override state limits on the filing of habeas corpus petitions.

Justice John Paul Stevens, who agreed with the outcome of the case, nonetheless asserted that nothing prevented Texas from granting Medellin another hearing, even though the state was not compelled to do so. In a concurring opinion, he wrote that “Texas’ duty in this respect is all the greater since it was Texas that – by failing to provide consular notice in accordance with the Vienna Convention – ensnared the United States in the current controversy.”

In response to the Court’s ruling, Mexico’s foreign relations department immediately contacted the U.S. State Department and asked it to enforce the ICJ ruling. After officials in Texas set an August 5 execution date for Jose Medellin, Mexico returned to the ICJ in June to request “provisional measures” to halt the execution. In July, the ICJ ordered the United States to do everything in its power to halt the execution of Medellin and five other Mexicans until it could make a final judgment in the dispute.

Numerous federal officials also became involved in the case, arguing that defiance of the ICJ ruling would threaten the safety of Americans travelling abroad who rely on the protections afforded by the Vienna Convention. Secretary of State Condoleezza Rice and Attorney General Michael Mukasey sent a joint letter on June 17 to Texas Governor Rick Perry asking that he take measures to implement the *Avena* judgment. On July 14, a bill was introduced in the U.S. House of Representatives to implement the *Avena* judgment by giving jurisdiction to federal courts to hear claims by foreign nationals that their consular rights had been violated.

Several Texas lawmakers, law professors, newspaper editorial boards, and religious leaders weighed in, as well, and asked the state to halt the execution until Congress had time to consider legislation on this issue. Governor Perry remained defiant, however, and Medellin’s execution took place as scheduled on August 5, 2008. Honduran national Heliberto Chi was executed two days later. Medellin was the sixth Mexican national executed by the State of Texas. At least 13 Mexican nationals – and 12 individuals of other nationalities – remain on Texas’ death row.

Stays of Execution/Warrant Withdrawals

Six inmates scheduled for execution in 2008 received last-minute stays, due to concerns about possible innocence, the fairness of the trial, or issues related to mental retardation or mental illness.

- A state district judge granted a stay to **Lester Leroy Bower Jr.**, who was scheduled for execution on July 22, in order to consider his request to order DNA testing that might support his claim of innocence. Bower was convicted in 1983 of killing four people at a North Texas airplane hangar; prosecutors had built their case on circumstantial evidence, since police never retrieved a murder weapon, no witnesses identified Bower, and no fingerprints placed him at the scene of the crime. DNA testing was not available at his 1984 trial. On August 30, the judge ordered DNA testing to proceed.
- The execution warrant for **Charles Dean Hood** expired at midnight on June 17 after a flurry of legal filings in which his attorneys sought a last-minute stay for their client. Hood’s attorneys had raised concerns about an alleged romantic relationship that existed between the trial judge, Verla Sue Holland, and the Collin County District Attorney, Tom O’Connell, which called into question whether Hood had received a fair trial. As the appeals shuttled back and forth among various courts, prison officials determined that they would be unable to complete their execution procedures by midnight and were compelled to let the warrant expire.

Hood's execution was rescheduled for September 10 without a hearing on the merits of his claim or an investigation into the alleged relationship, though a hearing regarding a request to take depositions from Judge Holland and Mr. O'Connell was set for two days after his execution. This set off another round of legal activity on numerous fronts and eventually prompted the involvement of Texas Attorney General Greg Abbott and other representatives of the legal and judicial communities. On September 3, 22 former federal and state judges and prosecutors from Texas and across the country delivered a letter to Governor Perry urging him to grant a 30-day reprieve to Hood. The letter states:

We write because our long experience as jurists and law enforcement officials leads us to believe that justice cannot be served unless the courts are able to consider whether Mr. Hood's conviction and sentence are invalid. ... It is an irrevocable wrong to send a man to his death without ever hearing this critical evidence. (Texas Defender Service)

Earlier in the summer, the nearly 500-member Association of Professional Responsibility Lawyers and three dozen of the nation's leading legal ethicists had called Hood's conviction into question, arguing that the alleged affair constituted a violation of Hood's constitutional rights and must be investigated.

On September 5, a state judge ordered a hearing into the alleged relationship and Attorney General Abbott called for a review of the fairness of the trial. In a letter to Collin County District Attorney John Roach, Abbott said the state would ask the district court to "thoroughly review the defendant's claims before the execution proceeds" in order to "protect the integrity of the Texas legal system. ...The impartiality of a defendant's trial and conviction must be beyond reproach." The letter further stated that the attorney general's office would file a legal brief asking the trial court to fully review the matter, even if that meant delaying the execution.

On September 9, a Collin County civil court took depositions from Judge Holland and former District Attorney O'Connell regarding their relationship. This was the result of an unusual move by Hood's defense attorneys, who filed a civil action to gain evidence that might prompt a last-minute stay of execution. Later that same day, the Texas Court of Criminal Appeals granted a stay of execution on a procedural claim unrelated to the evidence of the improper relationship. The court cited "developments in the law regarding (jury) nullification instructions" as the rationale for the stay.

Although the stay relates only to the death sentence – and not the conviction itself – Hood's attorneys continue to seek a new trial for their client. On November 19, the Court of Criminal Appeals sent the case back to the district court for a hearing that will determine whether the evidence related to the relationship is being presented too late in the appeals process. It has not yet ruled on the issue related to juror instructions.

- **Jeff Wood** received a stay from a federal judge on August 21, the day of his scheduled execution, so that his attorneys could pursue their claim that Wood's mental illness has rendered him incompetent to be executed. According to the Texas Defender Service, "... the Texas state courts had not complied with the basic due process that the United States Supreme Court required in another Texas case - that of Scott Panetti," who suffers from severe mental illness. The Federal District Court authorized an attorney and the assistance of mental health experts in order to provide the required review and consideration of Wood's mental health issues. In order to be deemed competent to be executed, an inmate must be aware of the reality of – and reason for – his or her punishment. Wood was convicted under the "law of parties," a Texas law under which no distinction is made between the principal actor and the accomplice in a crime and each defendant may be held equally culpable.

- **Bobby Wayne Woods** received a stay from the Texas Court of Criminal Appeals on October 23, the morning of his scheduled execution. Woods' lawyers argued that his appellate attorney, Richard Alley, had failed to present compelling evidence of their client's mental retardation. They asked for another chance to prove that Woods is ineligible for the death penalty, in accordance with the U.S. Supreme Court decision in *Atkins v. Virginia* (2002), which prohibits the application of the death penalty to persons with mental retardation. (In 2006, the Court of Criminal Appeals removed Alley from the list of lawyers eligible to handle habeas petitions.)
- **Eric Cathey** received a last-minute stay on November 18 from the Texas Court of Criminal Appeals so that his attorneys could pursue a mental retardation claim. The November 19 execution of **Rogelio Cannady** also did not take place as scheduled.

Four other inmates initially received stays of execution on various grounds but were later executed: **Derrick Sonnier; Gregory Wright; Joseph Ries; and Denard Manns.**

Commutations

Eight inmates were removed permanently from death row in 2008; their sentences were commuted to life in prison. This includes several inmates whose convictions and/or death sentences had been overturned by the U.S. Supreme Court, as well as the case of Michael Blair, who was exonerated from death row after DNA testing failed to connect him to the crime (see Exonerations below for more details on Blair).

- In January, the Texas Court of Criminal Appeals commuted the death sentence of **Daniel Plata** to life in prison, due to evidence of his mental retardation. According to the Texas Defender Service, Plata was the 11th person to be removed from Texas' death row since 2002 in compliance with the *Atkins* decision.
- The decades-long cases of **Thomas Joe Miller-El** and **LaRoyce Smith**, both out of Dallas County, were resolved in March after each man accepted a plea bargain in exchange for a life sentence. Both waived their right to further appeals. The U.S. Supreme Court had overturned Thomas Miller-El's conviction and death sentence in 2005 after finding that Dallas County prosecutors had unfairly eliminated 10 of 11 qualified blacks from the jury panel of his 1986 trial. The 1986 Supreme Court decision in *Batson v. Kentucky* – issued one month after Miller-El's trial took place – prohibited racial discrimination in jury selection. Dallas County prosecutors had a longstanding practice of striking minorities from juries, which was described in writing in stark detail. Miller-El pled guilty to the murder and robbery of hotel clerk Douglas Walker.

The death sentence of LaRoyce Smith was overturned for a second time by the U.S. Supreme Court in 2007 (*Smith v. Texas*); the Justices ruled that the jury at Smith's 1991 trial was not allowed to consider evidence of his mental retardation as a mitigating factor. (See U.S. Supreme Court Decisions below for more on the ongoing impact of the *Smith* decision.) Smith pled guilty to the murder of Jennifer Soto.

- In the case of **Johnny Paul Penry**, who was facing a fourth sentencing trial, the attorneys reached an agreement according to which he will serve three consecutive life sentences without the possibility of parole. Penry was convicted of the rape and murder of Pamela Moseley Carpenter in 1979. The U.S. Supreme Court overturned his death sentence in 1989 and then again in 2001; the Texas Court of Criminal Appeals voided a third one in 2005 and the Supreme Court refused to reinstate it. Each time the courts found that the juries in Penry's trials had not properly weighed evidence of his mental retardation and severe abuse as a child.

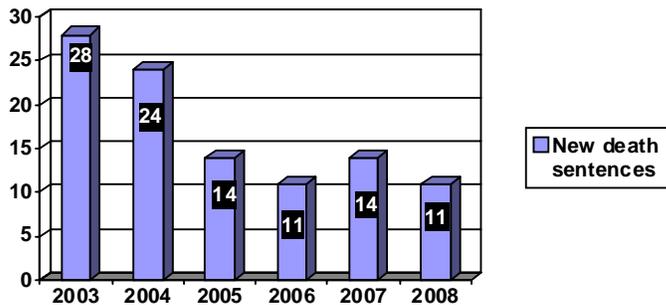
Billy Nelson, Steve Rodriguez, and Theodore Gaynes also received reduced sentences.

Death Sentences

According to data compiled from news sources, the Texas Department of Criminal Justice, and the Office of Court Administration, ten men and one woman were newly sentenced to death in Texas in 2008.¹ This ties with 2006 as the lowest number of new death sentences in Texas since official reinstatement of the death penalty in 1976 and reflects similar trends nationwide. It also represents a steep departure from the late 1990s, when as many as 48 people in Texas were sent to death row in a single year.

Seven counties accounted for the new death penalty convictions: Dallas (3); Tarrant (2); Cameron (2); Henderson (1); Lubbock (1); Nueces (1); and Wharton (1). A Cameron County jury sentenced **Melissa Lucio** to death over the summer. The capital murder trial and death sentence of **James Garrett Freeman** was the first to occur in Wharton County since 1979.

Notably, Harris County, which in the past condemned as many as 15 people a year to death, did not send anyone to death row in 2008. While Harris County still accounts for a third of all Texas inmates awaiting execution (116 of 344), it only has sentenced seven people to death in the last four years.



Six of the new inmates are Hispanic, three are white, and two are black. Currently there are 354 inmates on death row in Texas (344 men and 10 women).

Two inmates were resentenced to death in 2008: **David Renteria** and **Billie Wayne Coble**. According to the *El Paso Times* (June 23, 2008), El Paso County taxpayers spent \$235,254 to resentence Renteria to death. This

included the cost of juror lodging and meals, overtime pay for court staff, the fee for investigators, and witness travel. Taxpayers in McLennan County spent at least \$99,834 on the resentencing hearing of Billie Wayne Coble (*Waco Tribune-Herald*, October 11, 2008).

Jurors rejected the death penalty in at least four capital murder cases in 2008, resulting in sentences of life in prison without the possibility of parole. In the case of **Alberto Garcia**, a Travis County jury found it improbable that he posed a future danger, one of the conditions for a death sentence in Texas. The Bexar County jury in the trial of **Jonathan Depue** was not convinced that he was the triggerman. In the case of **Juan Leonardo Quintero**, an illegal Mexican immigrant convicted of killing a Harris County police officer, several jurors expressed the sense that Quintero's life still had value and that he deserved mercy.

Exonerations

Death Row Exoneration

On August 25, 2008, a Collin County court dismissed all charges against death row inmate **Michael Blair** for the 1993 rape and murder of seven-year-old Ashley Estell after new testing on DNA evidence failed to connect him to the crime. Blair spent 14 years on death row. He now is serving life sentences for other crimes.

¹ When this report was originally released on December 4, 2008, 9 individuals had been sentenced to death. This represented the lowest number of new death sentences in more than 30 years. After the report's release, Texas juries condemned two more people to death, raising the total to 11 new death sentences in 2008.

Earlier in the year, the Texas Court of Criminal Appeals had set aside Blair's conviction and granted a new trial in accordance with the recommendation of the trial court, prosecution, and defense attorney after all agreed that there was not enough evidence to uphold the conviction. The Innocence Project, which consulted on the case, blamed eyewitness misidentification, unreliable forensic science, and the community's "rush to judgment" for the wrongful conviction. Less than a year after Blair was sentenced to death, then-Governor George W. Bush signed "Ashley's Law," named after the victim in the case, which expanded the punishment and registration requirements for sex offenders. DNA testing and other evidence points to another suspect in the crime, who is now deceased.

Blair was the 4th person exonerated from death row nationally in 2008 and the 130th overall since 1973, according to the Death Penalty Information Center. DNA played a role in just 17 of these cases. Blair is the 9th person to be exonerated from death row in Texas.

Dallas County DNA Exonerations

Five more individuals convicted in Dallas County were exonerated as the result of DNA evidence in 2008, bringing the county's total number of DNA exonerations to 19. While these cases did not involve inmates on death row, they highlight systemic issues related to wrongful convictions. According to an investigation by the *Dallas Morning News*, nearly all of these cases involved faulty eyewitness testimony (October 12, 2008). A report issued in November by The Justice Project found that only 12% of Texas law enforcement agencies maintain any written policies or guidelines for the conduct of photo or live lineup procedures and that the few written procedures that do exist are often vague and incomplete.

Texas leads the nation with 37 DNA exonerations. Taxpayers have spent more than \$3 million in compensation and incarceration for the Dallas cases alone.

Throughout the year, the Dallas County District Attorney's office continued to investigate prior cases to determine whether there was any potential of innocence. In February, Dallas County District Attorney Craig Watkins provided more than 400 files to law students working for the Innocence Project of Texas. The students are reviewing cases in which convicts have requested DNA testing to prove their innocence; previous administrations had rejected many of these requests.

In September, District Attorney Watkins announced that he planned to reexamine in detail nearly 40 death penalty convictions in Dallas County in order to ensure that innocence is not an issue in any of the cases. Watkins explained that reviewing the capital murder convictions obtained by his predecessors could reveal systemic problems in the justice system and spur lawmakers to pass reforms. (*Dallas Morning News*, September 16, 2008)

Possible Innocence

In August, the Texas Forensic Science Commission, which was created in 2005, agreed to a request from the Innocence Project to investigate the possibility of misconduct in the arson case of Cameron Todd Willingham. Willingham was convicted in 1991 of setting a fire that killed his three daughters; he was executed by the State of Texas in 2004. According to the Innocence Project, a panel of leading experts later determined that the fire was not arson and that forensic experts at the time of Willingham's trial should have known that the fire was an accident. The commission will investigate the faulty forensic analysis used to convict Willingham.

Earlier in the year, key leaders from across the state – including judges, police chiefs, lawmakers, defense attorneys, prosecutors, exonerees, and criminal justice advocates – gathered at the State Capitol for a landmark Summit on Wrongful Convictions. Spearheaded by State Senator Rodney Ellis, with bipartisan

support from State Senators John Whitmire and Robert Deuell, the May 8 Summit marked the state's first high-level meeting aimed at addressing wrongful convictions in Texas.

Barry Scheck, the Co-Director of the Innocence Project, Jeff Blackburn of the Texas Innocence Project, and Dallas County District Attorney Craig Watkins, among others, participated in the meeting, which featured compelling testimonials from nine individuals who had been wrongfully convicted. Collectively, these men had spent 148 years in Texas prisons for crimes they did not commit.

Following on the heels of the Summit, on June 6 the Texas Court of Criminal Appeals announced the creation of the Texas Criminal Justice Integrity Unit, which will examine problems in the justice system and suggest legislative reforms. Key issues to be considered include the following: improving eyewitness testimony; reforming standards for collecting, preserving and storing evidence; eliminating improper interrogations and protecting against false confessions; improving crime lab reliability; and improving the quality of indigent defense. Members of the integrity unit include state lawmakers, judges, district attorneys, defense attorneys, and other key representatives of the criminal justice system.

U.S. Supreme Court Decisions

In 2008, the U.S. Supreme Court decided two death penalty-related cases that held significant implications for Texas:

- On April 16, the Court ruled 7-2 in *Baze v. Rees* that the current lethal injection protocol used by the majority of death penalty states does not amount to cruel and unusual punishment. This decision effectively lifted all of the stays that had been granted since September 25, 2007, when the Court agreed to hear the case, and paved the way for the resumption of executions. Officials in Texas immediately sought execution dates for inmates who had exhausted their appeals, and the state's first execution of the year took place on June 11.

The *Baze* decision struck a nerve with Justice John Paul Stevens, whose own thinking on the death penalty appears to have evolved dramatically during his 30-plus years on the Court. Stevens concurred with the majority's judgment, saying he felt bound to "respect precedents that remain a part of our law," but authored a separate opinion that raised questions about "the justification for the death penalty itself." Stevens wrote that "the time for a dispassionate, impartial comparison of the enormous costs that death penalty litigation imposes on society with the benefits that it produces has surely arrived."

- On June 25, in the case of *Kennedy v. Louisiana*, the Justices ruled 5-4 that the death penalty is unconstitutional as a punishment for the crime of raping a child and they effectively barred its imposition for any crime that does not take the life of the victim. The decision overturned death penalty laws in Louisiana and five other states, including Texas, that permit executions for child rape. Justice Anthony Kennedy wrote that there was no national consensus on putting child rapists to death, since so few states had implemented such laws and only two individuals had been sentenced to death for this specific crime (both men had been convicted in Louisiana; their sentences will be commuted to life in prison). Kennedy also cited "serious systemic concerns" in prosecuting the crime of child rape, including the fact that children are highly susceptible to coaching and can provide unreliable testimony.

The State of Texas, represented by Attorney General Greg Abbott, had joined an amicus brief with eight other states in support of Louisiana, which stated that the application of the death penalty in this case did not offend the core principles of the Eighth Amendment and urged the Court not to impose a categorical ban on its imposition in such cases. The *amici* wrote that they sought "to preserve the ability of their democratically elected legislatures to enact penal laws that are reflective of the

contemporary moral judgment of society concerning the unique and horrific crime of aggravated child rape.”

In 2007, the 80th Session of the Texas Legislature passed Jessica’s Law (House Bill 8), which allowed the death penalty for those who twice rape a child under age six and for the second conviction of aggravated sexual assault of a child younger than 14. The *Kennedy* decision invalidated the death penalty provision of the law but allows the sentence of life in prison without parole for such convictions to stand. A statement released by the Texas Association Against Sexual Assault applauded the Supreme Court’s ruling as a “step toward ensuring that prosecutions of child sexual assault across our nation remain victim-centered and child-friendly in their approach.” No death penalty cases in Texas had been prosecuted under Jessica’s Law.

On October 1, the Supreme Court denied Louisiana’s request for a rehearing of the case, which was based on the discovery of a little-known 2006 Congressional amendment to the Uniform Code of Military Justice that made child rape punishable by death (President Bush concurred with the amendment in a 2007 executive order). Rather, the Justices modified the majority and dissenting opinions to include a reference to the military code.

The Court’s 2007 decision in *Smith v. Texas* also continued to impact death penalty cases in Texas. In that ruling, the majority determined that the Texas sentencing statute in effect in 1991 or earlier had prevented juries from fully considering the mitigating evidence presented by the defendants, such as mental deficiencies or childhood abuse.

- In January, **Ronald Curtis Chambers**, who has been on death row since 1975, was granted a fourth sentencing hearing by the U.S. 5th Circuit Court of Appeals. The State had appealed the decision to the U.S. Supreme Court, but the Justices declined to review it. On the basis of the *Smith* decision, the 5th Circuit found that jurors in Chamber’s third death penalty trial may have received faulty instructions that prevented them from properly considering mitigating factors that might have rendered the death penalty inappropriate.
- In February, the Texas Court of Criminal Appeals ordered new sentencing hearings for **Jose Moreno** and **Ricky Eugene Kerr** in order to provide juries with an opportunity to consider mitigating evidence. Moreno had received a last-minute stay of execution in May 2007.
- Also in February, the 5th Circuit Court of Appeals ordered a new sentencing hearing for **Charles Mines, Jr.**, ruling that jurors did not properly consider evidence of his mental illness when deciding upon his punishment. Mines had been evaluated by a psychiatrist at a state hospital the week before the murder for which he was sentenced to death.

Legislative Developments

Over the summer, committees in both the Texas House and Senate heard public and invited testimony on interim charges related to whether Articles 36.09 (relating to trying multiple defendants from the same transaction either separately or jointly) and 36.10 (relating to severing defendants that show prejudice from a joint trial) of the Texas Code of Criminal Procedure provide sufficient safeguards to ensure fair and reliable trial results in capital cases with multiple defendants. The relevant committees sought to determine whether the articles provide trial judges with sufficient instruction regarding the joining or severance of defendants and, if not, to make recommendations to improve procedures. The interim charges stemmed from Governor Perry’s decision in August 2007 to commute the death sentence of Kenneth Foster out of concern about a Texas law that allows capital murder defendants to be tried simultaneously.

Advances in Legal Representation

The West Texas Regional Public Defender for Capital Murder Cases, established in 2007 through a grant from the Texas Task Force on Indigent Defense, became fully staffed by the summer of 2008, with three attorneys, three mitigation experts, one fact investigator, and two administrative assistants in the main Lubbock office. In addition, there is one attorney in the Amarillo office and one in the Midland office. The staff is dedicated entirely to the cases of indigent defendants charged with a capital offense.

Sixty-five counties have signed on to the program and will assume increased fiscal responsibility for the office over the next five years. According to Director Jack Stoffregen, the quality of defense exceeds anything he was able to do in private practice and the office saves participating counties thousands of dollars on indigent defense. "I think overall the quality of representation - because we have the opportunity to do these things - we're going to be able to do it better," Stoffregen said. "I never would have believed there would have been such a difference until I started working here." (*Lubbock Avalanche-Journal*, November 17, 2008)

Conclusion

While the total number of executions in Texas declined slightly in 2008 as a result of the *de facto* moratorium that existed until April 16, the rate at which these executions took place appeared to exceed all previous measures. The State of Texas was again the national outlier in terms of executions, accounting for nearly half of all people put to death nationwide in 2008. Of the eight other states that carried out executions, none accounted for more than four.

Yet the number of executions that took place was not matched by the number of new people condemned to death in 2008. This year, the number of new death sentences tied the lowest level in more than 30 years as juries and prosecutors opted instead for the sentence of life in prison without the possibility of parole.

Numerous cases, both capital and non-capital, continued to raise questions about the reliability and fairness of the Texas criminal justice system. TCADP expects the issues surrounding such cases to be taken under consideration by the Texas Legislature when it reconvenes in January 2009.

Appendix A: Texas Executions in 2008

Execution	First Name	Last Name	Age	Date	Race	County
423	Robert	Hudson	45	11/20/2008	Black	Dallas
422	Denard	Manns	42	11/16/2008	Black	Bell
421	George	Whitaker III	36	11/12/2008	Black	Harris
420	Elkie	Taylor	46	11/6/2008	Black	Tarrant
419	Gregory	Wright	42	10/30/2008	White	Dallas
418	Eric	Nenno	45	10/28/2008	White	Harris
417	Joseph	Ries	29	10/21/2008	White	Hopkins
416	Kevin	Watts	27	10/16/2008	Black	Bexar
415	Alvin	Kelly	57	10/14/2008	White	Gregg
414	William	Murray	39	09/17/2008	White	Dallas
413	Michael	Rodriguez	40	08/14/2008	Hispanic	Dallas
412	Leon	Dorsey	32	8/12/2008	Black	Dallas
411	Heliberto	Chi	29	8/7/2008	Hispanic	Tarrant
410	Jose	Medellin	33	8/5/2008	Hispanic	Harris
409	Larry	Davis	40	7/31/2008	Black	Potter
408	Derrick	Sonnier	40	07/23/2008	Black	Harris
407	Carlton	Turner	29	07/10/2008	Black	Dallas
406	Karl	Chamberlain	37	06/11/2008	White	Dallas

(Source: Texas Department of Criminal Justice)

Appendix B: Scheduled Executions in 2009

Scheduled Execution	First Name	Last Name	Date of Birth	Race	Date Received	County
1/14/2009	Curtis	Moore	02/26/1968	B	11/26/1996	Tarrant
1/15/2009	Jose Garcia	Briseno	5/14/1957	H	9/11/1992	Webb
1/21/2009	Frank	Moore	5/16/1959	B	11/20/1996	Bexar
1/22/2009	Reginald	Perkins	4/29/1955	B	3/22/2002	Tarrant
1/28/2009	Virgil	Martinez	12/12/1967	H	4/22/1998	Brazoria
1/29/2009	Ricardo	Ortiz	10/05/1962	H	6/24/1999	El Paso
2/4/2009	David	Martinez	5/9/1972	H	12/8/1995	Bexar
2/12/2009	Johnny	Johnson	8/2/1957	B	6/25/1996	Harris
3/3/2009	Willie Earl	Pondexter	3/5/1974	B	7/25/1994	Red River
3/10/2009	James Edward	Martinez	6/9/1974	H	2/13/2002	Tarrant
3/11/2009	Luis	Salazar	8/31/1970	H	10/30/1998	Bexar

(Source: Texas Department of Criminal Justice)

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