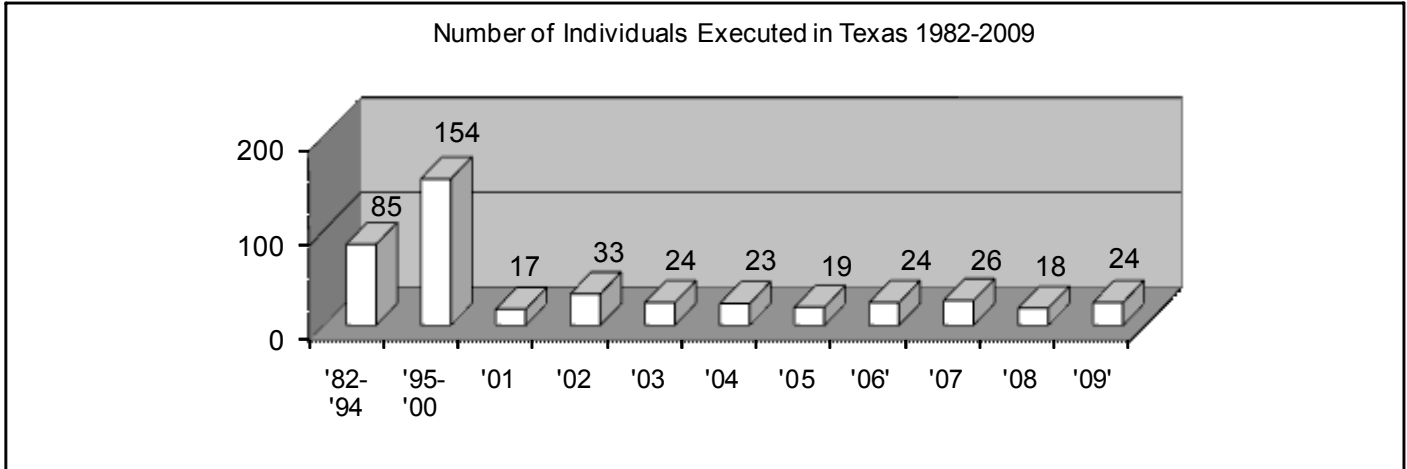


Texas Coalition to Abolish the Death Penalty

NUMBER OF INDIVIDUALS EXECUTED BY TEXAS

- Texas has executed individuals by lethal injection since 1982, when it resumed executions.



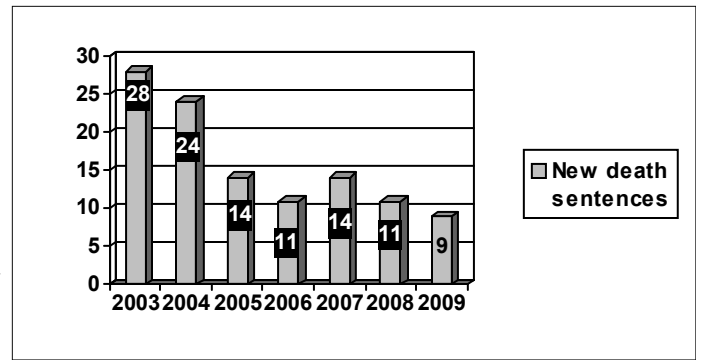
- In 2009, the State of Texas carried out 24 executions. Ten other states carried out executions in 2009 for a total of 28 executions. Texas has executed 463 people since 1982, accounting for 38% of the national total since 1977. In 2010, Texas has executed 16 people; 2 additional executions are currently scheduled through October 21, 2010.
- Between 1923 and 1964, Texas used the electric chair to execute 361 individuals. Prior to 1923, executions were carried out at the county level; approximately 394 people were executed by means of hanging. (Death Penalty Information Center)
- Texas leads the nation** in the number of individuals executed (out of 1194 nationwide since 1977).

State	Total	State	Total	State	Total
Texas	463	Arkansas	27	Washington	4
Virginia	107	Arizona	23	Kentucky	3
Oklahoma	92	Indiana	20	Montana	3
Florida	69	Delaware	14	Nebraska	3
Missouri	67	California	13	Pennsylvania	3
Georgia	47	Mississippi	13	Oregon	2
Alabama	47	Nevada	12	Colorado	1
N. Carolina	43	Illinois	12	Connecticut	1
S. Carolina	42	Utah	7	Idaho	1
Ohio	40	Tennessee	6	South Dakota	1
Louisiana	28	Maryland	5	Wyoming	1

DEATH SENTENCES

According to data available from the Texas Department of Criminal Justice and the Office of Court Administration, nine men were sentenced to death in Texas in 2009. **This represents the lowest number of new death sentences in Texas since official reinstatement of the death penalty in 1976.**

- Over the last six years, the number of new death sentences in Texas has declined by approximately 60%, which mirrors national trends.
- Death sentences in Texas peaked in 1999, when 48 people were sent to death row.



INNOCENCE AND THE DEATH PENALTY

- **Since 1973, 138 people have been released from U.S. death rows due to evidence of their wrongful conviction.** There have been 11 individuals released from Texas' death row, including Michael Toney, who was removed from death row after the state's high court ruled that prosecutors withheld key evidence during the trial favorable to the defense. In 2009, the state dropped all charges against Toney.
- In *Meaningless Acquittals*, Daniel Givelber suggests that the traditional rate of error in criminal convictions (3% to 8%) may be higher in death penalty cases.
- Strong arguments have been made that Texas has executed several innocent individuals, including: Carlos Deluna, 1989; Ruben Cantu, 1993; Gary Graham, 2000; Odell Barnes, 2000; and Cameron Todd Willingham, 2004.

THE DEATH PENALTY PROCESS

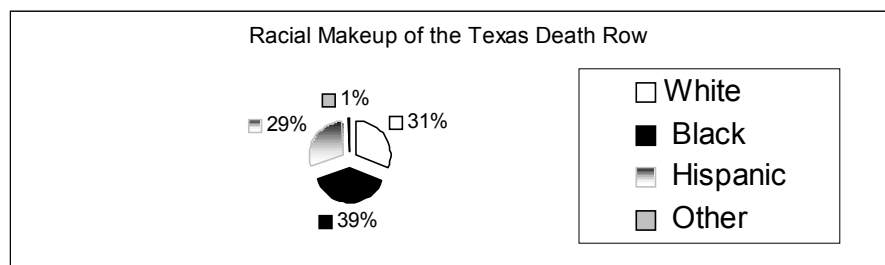
The American Law Institute, the nation's leading intellectual thinktank for the death penalty and the institution responsible for creating the Model Penal Code which was used in the reinstatement of the death penalty in 1976, announced the death penalty be a failed institution and abandoned all ties with the field. (*The New York Times*, January 5, 2010)

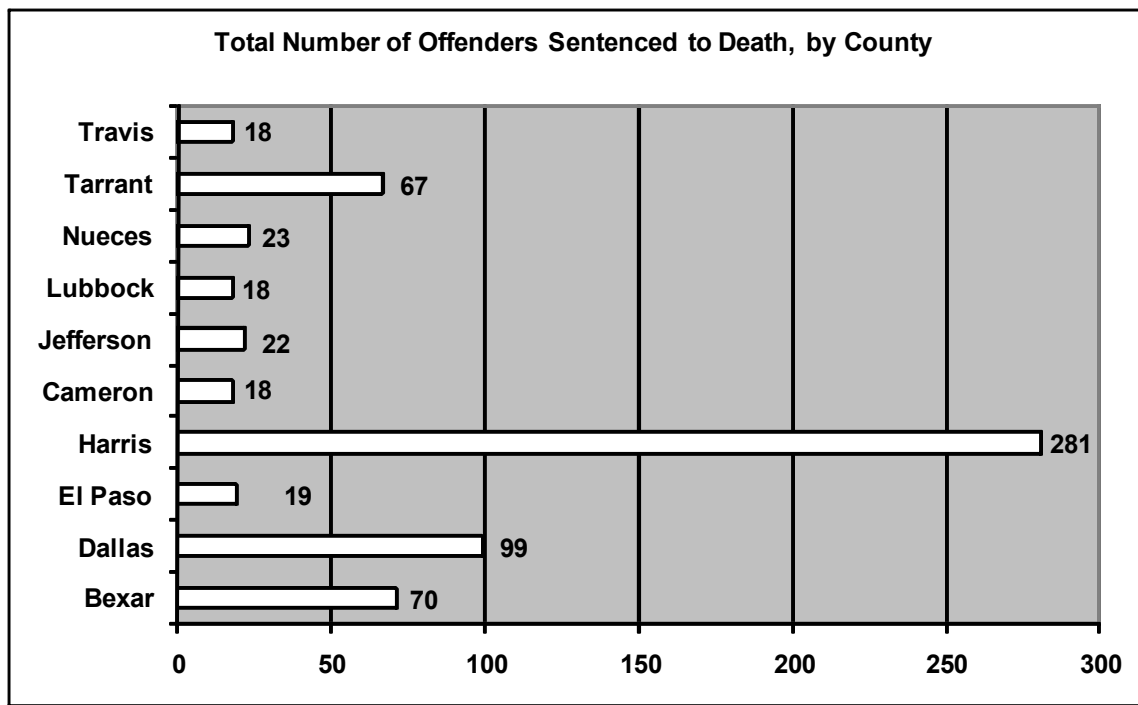
In *Executed on a Technicality*, Attorney David Dow provides the following insights into the death penalty process in Texas:

- **In Texas, nearly one in four death row inmates was represented by a lawyer who had been reprimanded, placed on probation, suspended or banned from practicing law by the state bar.**
- Capital defendants who are represented by court-appointed lawyers are 28% more likely to be convicted and 44% more likely to be sentenced to death than capital murder defendants who have the resources to retain their own lawyers.
- One third of the inmates executed during George Bush's tenure as Governor of Texas (1995-2000) were represented by lawyers who were later disciplined by the state bar.
- A detailed study of 251 state habeas corpus petitions filed on behalf of Texas death row inmates between 1995 and 2002 found that nearly one fourth of these petitions were only 15 pages long or less, indicating minimal work on the part of the defense lawyer.

DEATH ROW STATISTICS

- **There are 317 individuals on death row in Texas (307 men and 10 women).** This is the third largest death row population in the United States. (California has 694 inmates on death row, Florida has 395.)





Bowie 16, Brazos 15, Collin 15, Hidalgo 15, McLennan 15, Montgomery 18, Potter 16, Smith 22, all others 10 or less. Of Texas' 254 counties, 136 have never sent a single offender to death row (1976-present).

FINANCIAL COSTS OF THE DEATH PENALTY

- In 2009, Gray County spent nearly \$1 million in its pursuit of the death penalty for Levi King. His case, which had been moved to Lubbock County, consisted only of a punishment hearing. The cost to Gray County for seeking a death sentence for Levi King was a contributing factor in the county commission's decision to withhold employee raises and increase tax rates. King was already serving two consecutive life sentences in Missouri and had pled guilty to the murders of three Texans. (*Lubbock Avalanche-Journal*, December 13, 2009)
- In a 1992 study, the *Dallas Morning News* determined that **the average cost to the state of Texas for a death penalty case was \$2.3 million**, or about three times the cost of imprisoning an individual for 40 years. (March 8, 1992)
- Enforcing the death penalty in Florida costs the state \$51 million more than what it would cost to punish all first-degree murders with life in prison without parole. (*Palm Beach Post*, January 4, 2000)
- In Kansas, capital cases are 70% more expensive than comparable non-capital cases, including the costs of incarceration. (Kansas Performance Audit Report, December 2003)

DETERRENCE AND THE DEATH PENALTY

- A 2009 national poll commissioned by the Death Penalty Information Center found police chiefs ranked the death penalty last among ways to reduce violent crime. The police chiefs also considered the death penalty the least efficient use of taxpayers' money.
- **A 2009 study found "no empirical support for the argument that the existence or application of the death penalty deters prospective offenders from committing homicide."** (*T. Kovandzic, L. Vieraitis and D. Paquette Boots, Criminology and Public Policy, University of Texas at Dallas, 2009*)
- Consistent with previous years, the 2008 FBI Uniform Crime Report showed that the South had the highest murder rate. The South accounts for over 80% of executions. The Northeast, which has carried out less than 1% of all executions, again had the lowest murder rate.

TEXAS NEWSPAPER EDITORIAL BOARDS CALLING FOR A STOP TO EXECUTIONS

- Abolition: *Austin American-Statesman, Dallas Morning News*
- Moratorium: *Abilene Reporter-News, Bryan-College Station Eagle, Corpus Christi Caller-Times, Daily Texan, El Paso Times, Fort Worth Star-Telegram, Galveston Daily News, Houston Chronicle, San Antonio Express-News, Victoria Advocate, Wichita Falls Times Record*

THE TEXAS LAW OF PARTIES

Section 7.02 of the Texas Penal Code outlines the following:

- A person is criminally responsible for an offense committed by the conduct of another if "acting with intent to promote or assist the commission of the offense he solicits, encourages, directs, aids or attempts to aid the other persons to commit the offense" or "If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy."
- Persons convicted under this statute are eligible for the death penalty. Approximately 80 Texas death row inmates have been prosecuted under the law of parties; more than 20 have been executed since 1982.

MENTAL ILLNESS AND MENTAL RETARDATION

- Although the U.S. Supreme Court prohibited the application of the death penalty to persons with mental retardation in *Atkins v. Virginia* (2002), the Texas Legislature still has not enacted statutory provisions governing the standards and procedures to be followed in these cases. Texas is still sentencing to death and executing people who may in fact be mentally retarded.
- "Since 2002, Texas has removed just 13 men from Death Row after they were found to have the mental and emotional development of 12-year-olds. In contrast to a 40 percent success rate for Atkins appeals nationally, just 28 percent have been successful in Texas." (*Texas Observer*, "Cracked", January 8, 2010)
- In 1986, the U.S. Supreme Court ruled in *Ford v. Wainwright* that the execution of the "insane" – someone who does not understand the reason for, or the reality of, his or her punishment – violates the U.S. Constitution. The *Ford* decision left the determination of sanity up to each state, however. The Court has not addressed the constitutionality of sentencing offenders with severe mental illness to death.
- At least **25 individuals** with documented histories of paranoid schizophrenia, bipolar disorder, and other persistent and severe mental illnesses have been executed by the State of Texas. Many had sought treatment before the commission of their crimes, but were denied long-term care. The case of Larry Robison is a tragic case in point: His family tried for years to get help through the state mental health system, but he remained untreated because "he wasn't violent." The first time his paranoid schizophrenia led him into violence, he killed five people. Larry was executed in 2000. Would he and his victims all be alive had he received treatment? Learn more at <http://preventionnotpunishment.blogspot.com>.
- Approximately **15-20%** of Texas death row inmates receive ongoing mental health services.

RESOURCES ON THE DEATH PENALTY

Books and Reports:

- Atwood, David. *Detour to Death Row*, 2008.
- Cahill, Thomas. *A Saint on Death Row: The Story of Dominique Green*, 2009.
- Cheever, Joan. *Back From the Dead: One Woman's Search for the Men Who Walked Off America's Death Row*, 2006.
- Cook, Kerry Max. *Chasing Justice*, 2007.
- Dow, David R. *Executed on a Technicality: Lethal Justice on America's Death Row*, 2005.
- Kurtis, Bill. *The Death Penalty on Trial: Crisis in American Justice*, 2004.
- Pickett, Carroll. *Within These Walls: Memoirs of a Death House Chaplain*, 2003.
- Prejean, Sr. Helen. *Dead Man Walking*, 1993. *The Death of Innocents*, 2005.
- Recinella, Dale S. *The Biblical Truth About America's Death Penalty*, 2004.
- Scheck, Barry, Peter Neufeld and Jim Dwyer. *Actual Innocence: Five Days to Execution and other Dispatches from the Wrongly Convicted*, 2000.
- TCADP. *Texas Death Penalty Developments in 2009: The Year in Review*, 2009.

Websites:

- Texas Coalition to Abolish the Death Penalty: www.tcadp.org
- National Coalition to Abolish the Death Penalty: www.ncadp.org
- Death Penalty Information Center: www.deathpenaltyinfo.org
- Amnesty International: www.amnestyusa.org/abolish

