



Winter 2015

# Seizing the Momentum

Texas Coalition to Abolish the Death Penalty

## TCADP's 2014 Year-End Report Documents Declining Use of the Death Penalty

Last year, the State of Texas carried out its fewest executions since 1996, according to the Texas Coalition to Abolish the Death Penalty's (TCADP) year-end report, *Texas Death Penalty Developments in 2014: The Year in Review*. The report, which was released on December 18, 2014, documents declining use of the death penalty in Texas over the last 15 years.

Executions in Texas peaked in 2000, when the state put 40 people to death. In 2014, Texas administered 10 lethal injections, the same number of executions as Missouri. Overall, it accounted for less than 30% of U.S. executions last year.



Even more significantly, new death sentences in Texas have declined nearly 80% over the last 15 years. In 1999, prosecutors sought and juries imposed 48 new death sentences. In 2014, new death sentences in Texas remained near record-low levels, with 11 new death sentences coming from just 8 of the state's 254 counties. This decline reflects shifting attitudes towards the death penalty and is due in large part to greater prosecutorial discretion in determining whether to seek the death penalty in capital cases, especially given the alternative sentencing option of Life in Prison Without the Possibility of Parole.

As death sentences decline, their imposition remains geographically isolated. Five counties are responsible for 60% of new death sentences in the last five years. Last year, prosecutors in the Harris County District Attorney's Office alone accounted for four of the eleven new death sentences imposed by juries. Notably, prosecutors in Dallas County did not pursue the death penalty in any new capital murder trials in 2014.

The imposition of new death sentences also remains racially biased. Over the last five years, prosecutors have imposed 60% of all new death sentences on African-American defendants. Among those sentenced to death in 2014 are five African-American men, four white men, and two Hispanic men.

These racial disparities are even more pronounced in Harris County, where 15 of the last 18 defendants sentenced to death are African-American and the other 3 are Hispanic. The last death sentence sought by prosecutors and imposed on a white defendant by a Harris County jury came in November 2004, when serial killer Anthony Shore was sent to death row.

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Thank you, donors!

### Scheduled Executions in 2015

#### January

21 Arnold Prieto [Executed]  
28 Garcia White [Stayed]  
29 Robert Ladd

#### February

4 Donald Newbury  
10 Lester Bower Jr.

#### March

5 Rodney Reed  
11 Manuel Vasquez  
18 Randall Mays



The cases of individuals scheduled for execution last year illustrate deep and enduring flaws in our state's capital punishment system. These include people with intellectual disabilities and severe mental illness, Mexican nationals, and men who were just months past their 18<sup>th</sup> birthdays at the time of the crime. Rulings by the U.S. Supreme Court prohibit the death penalty for persons with intellectual disabilities and for those under age 18 at the time of the crime.

Of the 10 people executed by the State of Texas in 2014, four were Hispanic, four were African-American, and two were white. It was the first time since 2002 that two women were executed in the same year.

Executions in Texas utilize a compounded form of pentobarbital, supplied by an unidentified pharmacy. In May, then-Texas Attorney General Greg Abbott reversed the position his office took in three prior opinions in recent years and ruled instead that officials with the Texas Department of Criminal Justice do not have to disclose information about the drug supplier. A lawsuit brought by attorneys for death row inmates seeking information about the drug source under the Texas Public Information Act remains pending.

Two contentious executions did not take place as scheduled last year, due to last-minute intervention by the U.S. Court of Appeals for the Fifth Circuit:

- On May 13, 2014, the day of Robert Campbell's scheduled execution, the Fifth Circuit granted a stay in order to consider newly discovered evidence of his mental impairment. To date, no court has considered evidence of Campbell's intellectual disabilities, which bars his execution under the U.S. Supreme Court ruling *Atkins v. Virginia* (2002).
- On December 3, 2014, less than eight hours before his scheduled execution, the Fifth Circuit granted a stay to Scott Panetti to consider the "complex legal questions" surrounding his case, specifically, his competency to be executed. Panetti, whose competency has not been evaluated in seven years, has been diagnosed with schizophrenia and has a fixed delusion that Satan, working through the state, is trying to kill him for preaching the Gospel.

A total of seven inmates received reprieves last year, including stays granted by the courts and the withdrawal of execution dates. Thirteen executions have been scheduled to take place in Texas in the first few months of 2015.

*Texas Death Penalty Developments in 2014: The Year in Review* is available online at <http://tcadp.org/wp-content/uploads/2015/01/Texas-Death-Penalty-Developments-in-2014-FINAL.pdf>. Contact Kristin Houlé at [khoule@tcadp.org](mailto:khoule@tcadp.org) to receive a copy directly via email.

Information on national death penalty developments is available from the Death Penalty Information Center: <http://www.deathpenaltyinfo.org/YearEnd2014>.

Special thanks to Stephanie Rivas for creating incredible infographics to accompany the report and to everyone who tweeted about it on the day the report was released!

## Seizing the Momentum

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### Volunteers

Thanks so much to the following individuals who have volunteered in the TCADP Office or provided administrative support in recent months: Vanessa Akins; Lindsey Pearlstein; and Mike Renquist.

We are immensely grateful for your assistance!

### Save the date for these special events!

- The TCADP 2015 Annual Conference will take place on Saturday, February 21, 2015 at St. David's Episcopal Church in downtown **Austin**.
- **Amplify Austin**, a 24-hour online fundraising event, will take place from 6 PM on March 5 through 6 PM on March 6, 2015.
- Faith Leader Advocacy Day on the Death Penalty will take place at the State Capitol in **Austin** on Monday, March 9, 2015.

Check [www.tcadp.org](http://www.tcadp.org) for details.

### Participate in these regular events!

- Bi-monthly luncheons take place in **Austin** on the fourth Wednesday of the month (January, March, May, July, September, and November - locations vary), with a special guest speaker and an opportunity to meet with other local supporters
- Bi-monthly luncheons take place in **Houston** on the last Tuesday of the month (January, March, May, July, September, and November at St. Anne's Catholic Church)
- **El Pasoans Against the Death Penalty** meet on the last Tuesday of the month at 7:00 pm in the Pedro Maldonado room of St. Pius X Church, 1050 N. Clark
- **Vigils** take place throughout the state of Texas on the day and/or evening of executions. Visit <http://tcadp.org/get-involved/stop-executions/> for details.

More information is available at <http://tcadp.org/get-involved/attend-events/>.



**Connect with TCADP on Facebook!**

**View photos from our events, connect with other supporters, and learn about important death penalty developments. "Like" us today!**



## TCADP 2015 Annual Conference *Death Penalty Fault Lines: A Seismic Shift in Ground*

Now in its 16<sup>th</sup> consecutive year, the TCADP Annual Conference is a must-attend event for everyone in the abolition movement in Texas. The conference features inspiring speakers, informative workshops, and great networking opportunities. Here are some highlights of this year's program:

### The 2015 Keynote Speaker during the Awards Luncheon will be Attorney Tim Cole.

Tim Cole is a former district attorney with more than 20 years of experience in the courtroom. He has tried over 100 felony jury trials in North Texas. Tim was elected to four terms as the 97th District Attorney and served as assistant district attorney in the 271st District. He also served as Counsel to Governor Clements in 1990 and General Counsel for the Texas District and County Attorneys Association from 1988 to 1990.

Tim's work in high-profile cases has been written about and documented in major publications, including *Texas Monthly*. He also wrote about his personal experience in a death penalty case, "The Death Penalty Has a Face," which was published by *Texas Monthly* in March 2013.



### The morning panel discussion, "Shifting the Ground Under the Death Penalty," will include the following speakers:



#### Jen Moreno, Staff Attorney with the Death Penalty Clinic at UC Berkeley Law

Since joining the Clinic in 2007, Jen has worked exclusively on challenges to lethal injection as a method of execution. She created and developed the Clinic's lethal injection web-based clearinghouse and has consulted with attorneys litigating lethal injection challenges in more than twenty jurisdictions.

#### Brian Stull, Senior Staff Attorney with the ACLU Capital Punishment Project

Brian has served as trial and appellate counsel in capital cases in North Carolina, Georgia, and Texas. Among other clients, Brian represented Levon "Bo" Jones, an innocent man exonerated from North Carolina's death row in 2008; Adrian Estrada, a Texas man whose death sentence was reversed when the ACLU discovered he had been sentenced to death based on false testimony; Manuel Velez, an innocent Texas man recently released from prison; and Max Soffar, an innocent man dying of liver cancer on Texas's death row.



#### Pat Monks, Attorney and TCADP Board Member

Pat Monks, a native Houstonian, has practiced law as a criminal defense attorney for 27 years and is a life-long member of the Republican Party. He served as Chair of Precinct 718 of Harris County for more than 10 years and was a member of the Judicial Candidate Selection Committee of Harris County. Pat has attended nearly every precinct, senatorial, and State Republican Convention for the last 20 years. He joined the TCADP Board of Directors in 2010 and is an active member of Conservatives Concerned About the Death Penalty.

### Our 2015 Annual Awards will be presented to the following individuals:

**Appreciation Award: Alexandra Noll**, for volunteering for TCADP since 2011 and reaching out to other students to join the movement.

**Appreciation Award: Rev. Cheryl Smith**, for bringing light to the death penalty issue through regular vigils outside the Walls Unit in Huntsville.

**Courage Award: Manuel Velez**, for spending nine years in prison, including four years on death row, as an innocent man and making the ultimate sacrifice to take a plea offered by the state in order to ensure his freedom and be reunited with his family.

**Media Award: Alex Hannaford**, for writing countless articles about the death penalty for publications such as *The Guardian*, *Texas Observer*, and *the Nation* and for creating "The Last 40 Miles," an animated short film that depicts a man's final journey from death row in Livingston to the death chamber in Huntsville.

More information about the conference is available at <http://tcadp.org/what-we-do/annual-conference/>. Register today!

## TCADP Advocates for Repeal of the Death Penalty in the 84<sup>th</sup> Texas Legislature



During the 84th Texas Legislature, which convened on Tuesday, January 13, 2015, the Texas Coalition to Abolish the Death Penalty once again will be working to repeal the death penalty and to engage in dialogue with elected officials about the flaws and failures of our state's capital punishment system.

This will be our fifth legislative session to work with State Representative Jessica Farrar (District 148-Houston) on a comprehensive bill that not only stops executions in Texas but also replaces all references to the death penalty in the Texas Penal Code and Code of Criminal Procedure with the alternative sentencing option of Life in Prison Without the Possibility of Parole. The House Committee on Criminal Jurisprudence has held public hearings on this legislation in every session since 2009.

Texas is one of many states where legislators are reviewing the fairness and accuracy of the death penalty. Such scrutiny already has led to the abolition of the death penalty in five states in recent years: New Jersey (2007), New Mexico (2009), Illinois (2011), Connecticut (2012) and Maryland (2013). The death penalty now has been abandoned in 18 states and the District of Columbia. This year, elected officials in numerous states will be considering repeal legislation; these include Colorado, Delaware, Florida, Indiana, Kansas, Kentucky, Montana, Nebraska, Washington, and Wyoming.



The TCADP Lobby Corps, founded in 2012, will play a vital role in our activities throughout the legislative session. This volunteer lobbying group consists of 20 people who have been trained to advance TCADP's legislative agenda and meet with legislators. Their work has significantly increased our visibility and capacity in the State Capitol. Lobby Corps members will begin visiting the Capitol on January 22<sup>nd</sup>, when we hand deliver copies of TCADP's year-end report, *Texas Death Penalty Developments in 2014: The Year in Review*, to all 181 legislative offices.

We also are excited to announce our first-ever **"Faith Leader Advocacy Day on the Death Penalty,"** which we are organizing in partnership with Texas Impact, the oldest and largest statewide interfaith network in Texas. On Monday, March 9, 2015, TCADP and Texas Impact will hold a press

conference at the State Capitol to release an Interfaith Statement of Opposition to the Death Penalty, which has been endorsed by more than 500 faith leaders across Texas. Participating faith leaders will then meet with legislators to voice their concerns about the death penalty. Through these efforts, we aim to increase awareness of faith-based opposition to the death penalty and persuade more Texans to embrace alternatives to its use. Learn more on our website at <http://tcadp.org/what-we-do/religious-outreach/> and save the date for this important advocacy opportunity.

TCADP will mobilize our members and supporters as the session progresses. Look for legislative alerts and other communications for updates and actions you can take as a constituent. If you have questions about our legislative agenda, please contact the TCADP office at 512-441-1808 or [khoule@tcadp.org](mailto:khoule@tcadp.org).

### In Memoriam: Ken Robison

Longtime TCADP member and advocate Ken Robison, of Burleson, Texas, passed away on January 10, 2015 at the age of 84. Ken and his wife Lois were pioneers in drawing attention to the plight of individuals with severe mental illness on death row in Texas. Together, they served as the directors of the Texas Chapter of CURE and were named Abolitionists of the Year by the National Coalition to Abolish the Death Penalty in 2000.

We extend our heartfelt sympathies to Lois and all the members of the Robison family.

Learn more about Ken and Lois and the story of their son, Larry, at <http://www.journeyofhope.org/who-we-are/family-of-the-executed/ken-lois-robison/>. Photo courtesy of the Journey of Hope.





## Three Books Shed Light on the Criminal Justice System

The Fall 2014 TCADP Newsletter featured an interview with Dorothy Van Soest about her new novel, *Just Mercy*, dealing with a murder and the dehumanization caused by the death penalty. Coincidentally, a second book with the same title was published almost at the same time: *Just Mercy: A Story of Justice and Redemption* (Spiegel & Grau, New York, 2014), by Bryan Stevenson, Professor of Law at New York University Law School, and Executive Director of the Equal Justice Initiative. Following are reviews of that book and two others. Each in its own way deals with factors embedded in the present criminal justice system that reinforce the practice of the death penalty.

**In Stevenson's words, his book "is about getting closer to mass incarceration and extreme punishment in America. It is about how easily we condemn people in this country and the injustice we create when we allow fear, anger, and distance to shape the way we treat the most vulnerable among us."**

Much of the book deals with the story of Walter McMillian, an African-American wrongly convicted and sentenced to death. The account details how this conviction, which undoubtedly typifies many others, was not simply a mistake. It was the result of an orchestration of deliberate errors and lies on the part of the "system," starting with the trial judge who did his best to prevent Stevenson from representing McMillian. The accused had a solid alibi and the case should have ended there, yet McMillian was to spend years on death row and have his life basically wrecked before being exonerated.

*Just Mercy* contains a wealth of examples of the perversities in the system that lead to conviction of the innocent, as well as the execution of individuals who were too young or mentally incapacitated to merit such a punishment. **It documents how defendants are falsely found guilty while being represented by court-appointed attorneys who are not only incompetent, but corrupt – at times being sent to prison themselves later.** It demonstrates how a team of devoted attorneys is able to obtain exonerations, but only after exhausting efforts. It tells the reader of victories before the Supreme Court, including a ban of another form of death penalty, mandatory life-without-parole sentences imposed on children convicted of homicides.

*The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (The New Press, New York, 2010) by Michelle Alexander, Associate Professor of Law at Ohio State University, is an extraordinary exposition of the development of a new caste system in America, a system that supplants, yet replicates, the earlier systems of slavery and Jim Crow. It reveals with compelling clarity how African-Americans are sentenced disproportionately to prison and inevitably to death row. **The perpetuation of the death penalty is part and parcel of our society's compulsion to imprison and exact maximum penalties against people of color, especially African-Americans.** To gain ground in abolishing the death penalty, it is equally necessary to attack the myriad of causes of mass incarceration and its product, a racist caste system.

Finally, there is *The Mystery of Gitano Cervantes: Vignettes of Life (and Death) under a Broken System of Justice*, published in 2014 by Finbar Manghan, the pen-name of a volunteer who served ten years as a Chaplain in five Units of a state prison system (see [www.finbarmanghan.com](http://www.finbarmanghan.com)). While Stevenson's book offers the approach of an attorney and Alexander's that of an academician deeply involved in the struggle of ethnic justice, Manghan's is written from the viewpoint of individual prisoners, as revealed in their letters and trial transcripts. It tells the stories of five men held in a state called "Swest." (The publisher insisted on the use of a pen-name and fictitious names for the state and all actual persons, except in Chapter Six, which deals with other published works about the criminal justice system, such as "*The Thin Line: The Texas Prison Healthcare Crisis and the Secret Death Penalty*" – Texas Civil Rights Project.)

The book documents the lamentable results that spring from a system that uses court-appointed attorneys to defend the indigent. **It traces how some judges and prosecutors manipulate the system in order to deliberately obtain false convictions. It suggests that in some cases, family members collaborate with prosecutors to send a family member to prison for life, in order to gain some financial benefit.** (One man is now serving a life sentence although he did not enter the country until two years after the alleged offense, an alibi that was never mentioned to the jury by his attorney, who also did not call his one vital witness to the stand, and whose license was suspended at the time of the trial because of non-payment on his student loan.) Inadequacies in Swest's health services system and grievance apparatus are also described in detail. A particularly tragic story is that of an African-American man who, after pleading for over four years that his life was in danger, was found dying in his cell from a mysterious head wound. He was 53.

**While the first two books portray how a discriminatory system leads to mass incarceration and the disproportionate presence of people of color on death row, Manghan's book is what other reviewers have called a "compelling" study of what happens not only inside our courts, but within the prisons themselves, in the areas of health care, discipline and the grievance system.**

These three books constitute an excellent resource for anyone who wants to gain a deeper understanding of our criminal justice system and its impact on communities.



TCADP thanks the following individuals and organizations for their generous contributions between October 23, 2014 and January 28, 2015. This financial support is critical to all of the activities and events described in this newsletter. Support for TCADP is also provided by the Proteus Action League.

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# Register Today!

**TCADP 2015 Annual Conference**  
**February 21, 2015 8:00 AM to 5:30 PM**  
**St. David's Episcopal Church**  
**Austin, Texas**

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(After February 13th, \$60)

\_\_\_\_\_ \$60 Non-Member  
(After February 13th, \$70)

\_\_\_\_\_ \$25 Student  
(After February 13th, \$25)

\_\_\_\_\_ \$35 Awards Luncheon only

\_\_\_\_\_ Enclosed is an additional contribution toward the conference.

**Lunch preference:**  
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No restrictions

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**Registration includes continental breakfast and lunch.**

Questions? Contact the TCADP office at 512-441-1808.