

- To date in 2017, the State of Texas has put four people to death, out of thirteen executions nationwide.
- Executions are carried out by a single dose of compounded pentobarbital.
- Texas accounts for more than one-third of executions nationwide since 1977 (542 out of 1,455).

State	Total	State	Total	State	Total
<b>Texas</b>	<b>542</b>	Arkansas	31	Montana	3
Harris County	127	Mississippi	21	Nebraska+	3
Oklahoma	112	Indiana	20	Pennsylvania**	3
Virginia	112	Delaware*	16	Idaho	3
Florida	92	California	13	South Dakota	3
Missouri	88	Nevada	12	Oregon**	2
Georgia	70	Illinois*	12	Colorado	1
Alabama	60	Utah	7	Connecticut*	1
Ohio	53	Tennessee	6	Wyoming	1
N. Carolina	43	Maryland*	5	New Mexico*	1
S. Carolina	43	Washington**	5	New Jersey*	0
Arizona	37	Kentucky	3	New York*	0
Louisiana	28				

\*Maryland (2013), Connecticut (2012), Illinois (2011), New Mexico (2009), New Jersey (2007), New York (2007), and Delaware (2015) have abandoned the death penalty. A total of 19 states and the District of Columbia do not have the death penalty as a sentencing option.

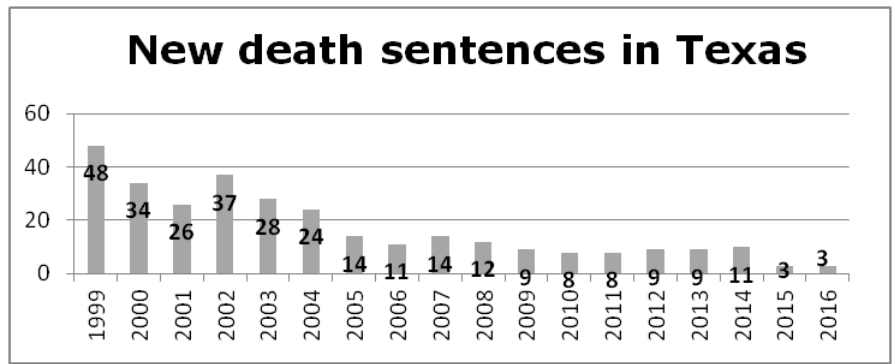
\*\*The Governors of Oregon (2011), Washington (2014), and Pennsylvania (2015) have declared a moratorium on executions.

+The Nebraska legislature repealed the death penalty in 2015; Nebraskan voters approved its reinstatement in 2016.

- There are 31 states that have abandoned the death penalty in law or in practice.

## Death Sentences

- New death sentences have declined nearly 80% since peaking in 1999, when juries sentenced 48 people to death. To date in 2017, Texas juries have imposed two new death sentences.
- Factors contributing to the decline in new death sentences include improvements in the quality of legal counsel provided to indigent defendants, the exorbitant cost of death penalty trials, prosecutorial discretion, concerns about wrongful convictions, and the availability of Life in Prison Without the Possibility of Parole, which became a sentencing option in Texas in 2005.
- Just seven counties account for 65% of new death sentences since 2012. Of the 254 counties in Texas, 135 have not sentenced anyone to death (1974-present).



Texas' Highest Death Sentencing Counties Since 2012							
	2012	2013	2014	2015	2016	Total 2012-2015	Total Since 1974
<b>Harris</b>	0	1	4	0	0	5	294
<b>Dallas</b>	2	3	0	0	0	5	107
<b>Tarrant</b>	2	0	1	0	1	4	74
<b>McLennan</b>	1	1	1	0	0	3	18
<b>Smith</b>	1	0	0	1	0	2	24
<b>Brazos</b>	1	0	0	1	0	2	17
<b>Kaufman</b>	0	0	1	0	1	2	3
<b>Total</b>	7	5	7	2	2	23	537
<b>All Counties</b>	9	9	11	3	3	35	1,095

## Death Row Population

- There are 236 individuals on death row in Texas (230 men and 6 women), which is the smallest population since the late 1980s. Texas has the third largest death row population in the United States, after California (748 people on death row) and Florida (362).
- While African-Americans comprise less than 13% of the Texas population, they comprise 43.6% of death row inmates. Hispanics comprise 27.1% and whites comprise 27.9% of the death row population.

## Innocence

- Since 1973, 159 people have been released from death rows nationwide due to evidence of their wrongful conviction. Thirteen individuals have been exonerated and released from death row in Texas, including Alfred DeWayne Brown, who spent more than a decade on death row. On June 8, 2015, capital murder charges against Brown were dismissed.
- There is strong evidence in the following cases that the State of Texas executed an innocent man: Carlos Deluna (executed in 1989); Ruben Cantu (1993); Gary Graham (2000); Odell Barnes (2000); Claude Jones (2000); and Cameron Todd Willingham (2004).
- According to the National Registry of Exonerations, since 1989, 317 people who were convicted of serious crimes in Texas have been exonerated. Factors contributing to their wrongful conviction include mistaken witness identification (a factor in 72 cases), false or misleading forensic evidence (151), perjury or false accusation (69), false confession (7), inadequate legal defense (40), and/or official misconduct (63). DNA evidence played a role in 59 exonerations. Most cases included more than one contributing factor.

## **Legal Representation**

In 2009, the American Law Institute, the nation's leading intellectual think tank for the death penalty and the institution responsible for creating the Model Penal Code, declared the death penalty to be a failed institution.

In *Executed on a Technicality: Lethal Justice on America's Death Row* (2005), capital defense attorney David Dow provides the following insights into the legal representation of death row inmates 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. One-third of the inmates executed during George W. Bush's term as Governor of Texas (1995-2000) were represented by lawyers who were later disciplined 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 means to retain their own lawyers.
- 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 less than 15 pages in length, indicating minimal work on the part of the defense attorney.

## **Cost of the Death Penalty**

- 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)
- In a 2010 national poll conducted by Lake Research Partners, 65% of U.S. voters supported replacing the death penalty and using the money saved for crime prevention.
- Like many other small counties, Calhoun County does not regularly seek the death penalty. In fact, its last death penalty trial was in the 1970s. As a result of this, Calhoun County decreased its budget for indigent defense. In 2014, Jonathan Camacho was charged with one count of murder and three counts of capital murder. In November 2015, Camacho plead guilty in exchange for life without parole. District Attorney, Dan Heard, said Camacho's defense had already cost the county thousands of dollars. He estimated a trial seeking the death penalty would have cost at least \$1 million.

## **Deterrence**

- 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 2012 report from the National Research Council found that while the subject of deterrence has been exhaustively studied and debated over the last 35 years, essentially none of this research can be considered useful or informative in determining whether the death penalty has any impact on homicide rates. The committee of distinguished scholars recommended that "these [deterrence] studies should not be used to inform judgments about the effect of the death penalty on homicide, and should not serve as a basis for policy decisions about capital punishment."
- The FBI Uniform Crime Report consistently shows the South, which accounts for more than 80% of executions, to have the highest murder rate in the nation. The Northeast, which has carried out less than 1% of all executions, typically has the lowest murder rate.

## **Texas Editorial Board Positions on the Death Penalty**

- Endorsing abolition:
  - Austin American-Statesman* since the mid-2000s
  - Dallas Morning News* since 2007
  - Fort Worth Star-Telegram* since 2013
  - Houston Chronicle* since 2011
- Endorsing a moratorium on executions: *Abilene Reporter-News*, *Bryan-College Station Eagle*, *Corpus Christi Caller-Times*, *Daily Texan*, *El Paso Times*, *Galveston Daily News*, *San Antonio Express-News*, *Texas Monthly*, *Victoria Advocate*, *Wichita Falls Times Record*

## Texas Law of Parties

According to Section 7.02 of the Texas Penal Code:

- 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 death row inmates were prosecuted under the Law of Parties; of these, more than 20 have been executed.

## Severe Mental Illness and Intellectual Disabilities

- Although the U.S. Supreme Court prohibited the application of the death penalty to persons with intellectual disabilities in 2002 (*Atkins v. Virginia*), the Texas Legislature still has not enacted statutory provisions governing the standards and procedures to be followed in these cases. The state continues to sentence to death and execute people who may in fact have intellectual disabilities.
- Since 2002, Texas has removed at least 15 men from death row due to evidence of intellectual disabilities. In contrast to a 40% success rate for *Atkins* appeals nationally, just 28% have been successful in Texas. (*Texas Observer*, "Cracked", January 8, 2010)
- On March 28, 2017, the U.S. Supreme Court ruled that the state of Texas must use current medical standards for determining whether a person is intellectually disabled and therefore exempt from execution. The case – *Moore v. Texas* – involves Bobby James Moore, who was convicted of killing a grocery store employee during a bungled robbery in Houston in 1980. He was 20 years old at the time of his conviction. The trial took place less than three months after the crime. Moore has faced two serious execution dates in his 35 years on death row.
- 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 competency up to each state, however. The Court has not addressed the constitutionality of sentencing offenders with severe mental illness to death.
- At least 30 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.
- Approximately 15-20% of Texas death row inmates receive ongoing mental health services.

## Websites:

- Texas Coalition to Abolish the Death Penalty: [www.tcadp.org](http://www.tcadp.org)
- TCADP Social Media: [www.facebook.com/tcadp](http://www.facebook.com/tcadp) and [www.twitter.com/TCADPdotORG](http://www.twitter.com/TCADPdotORG)
- ACLU of Texas: [www.aclutx.org](http://www.aclutx.org)
- Death Penalty Information Center: [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)
- Equal Justice USA: [www.ejusa.org](http://www.ejusa.org)
- Public Safety Officials on the Death Penalty: [psodp.org](http://psodp.org)
- Murder Victims' Families for Reconciliation: [www.mvfr.org](http://www.mvfr.org)
- Texas Defender Service: [www.texasdefender.org](http://www.texasdefender.org)
- Witness to Innocence: [www.witnesstoinnocence.org](http://www.witnesstoinnocence.org)