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Death sentences remained near historic low levels in Texas in 2018, yet state's capital punishment system still plagued by racial bias, geographical disparities, and fundamental unfairness

All seven death sentences in 2018 imposed on people of color

(Austin, Texas) -- The number of death sentences and executions in 2018 was consistent with lower use of the death penalty in Texas over the last 10 years, according to a new report from the Texas Coalition to Abolish the Death Penalty (TCADP). New death sentences remained in the single digits for the ninth time in ten years, with Texas juries condemning seven individuals to death. All seven men sentenced to death in Texas in 2018 are people of color.

Juries rejected the death penalty in two capital murder trials, while two other capital cases were declared mistrials. For the third year in a row, no one was resentenced to death in Texas.

"The death penalty landscape in Texas has changed significantly over the last 20 years," said Kristin Houlié, TCADP Executive Director and author of *Texas Death Penalty Developments in 2018: The Year in Review*. "Not only have the number of death sentences and executions declined by staggering percentages, but the chorus of voices raising concerns about the application of the death penalty grows louder and more diverse every day."

As use of the death penalty declines, its application remains geographically isolated. Only four counties in Texas have imposed more than one death sentence in the last five years. The two counties that have imposed the most death sentences since 1974 – Harris and Dallas – together account for just two new sentences since 2015.

The death penalty also continues to be disproportionately imposed on people of color. Over the last five years, more than 70% of death sentences have been imposed on people of color.

The State of Texas put 13 people to death in 2018, matching the number of executions carried out in 2015. It was one of just eight states nationwide to carry out executions in 2018 and accounted for more than half of all U.S. executions this year. The cases of those put to death in Texas in 2018 involved claims of innocence, ineffective assistance of counsel, religious discrimination, and false testimony, among other serious issues.

In 2018, the Texas Court of Criminal Appeals (CCA) stayed half as many executions as it did in 2017, granting reprieves to three individuals with claims related to intellectual disability or incompetency to be executed.

Three other people with execution dates received reprieves, including a rare clemency grant. On February 22, 2018, less than an hour before the execution of Thomas “Bart” Whitaker was set to begin, Texas Governor Greg Abbott issued a proclamation sparing his life and commuting his death sentence to life in prison without the possibility of parole in accordance with a unanimous recommendation from the Texas Board of Pardons and Paroles. It was the first clemency grant in Texas in more than a decade and only the third since the resumption of executions in 1982.

Since 2014, a total of 24 individuals – including three this year – have been removed from death row in Texas for reasons other than execution. During this same time period, 50 people have been put to death.

The U.S. Supreme Court’s 2017 ruling in *Moore v. Texas* continued to impact Texas death penalty cases. That decision found the state of Texas must use current medical standards for determining whether a person is intellectually disabled and therefore exempt from execution. In 2018, the CCA granted two stays and issued orders in six other cases with claims related to intellectual disability in light of *Moore*, remanding them to the trial courts for further action.

In the case of Bobby Moore himself, however, the state’s highest criminal court once again relied on lay stereotypes and non-scientific criteria in rejecting Moore’s claim that he is exempt from the death penalty because he is intellectually disabled. His attorneys and the Harris County District Attorney’s Office have asked the U.S. Supreme Court to accept review of the case and summarily reverse the June 6, 2018 ruling from the CCA.

There also were significant developments this year in cases involving outdated or false scientific evidence. In October, Rigoberto “Robert” Avila became the first death-sentenced defendant to receive a favorable recommendation from a district court under Article 11.073 of the Texas Code of Criminal Procedure. That statute, which was adopted with bipartisan support by the Texas Legislature in 2013, provides a remedy for individuals who were convicted based on false or outdated science.

41st District Court Judge Annabell Perez of El Paso recommended Avila receive a new trial after concluding that if newly available scientific evidence had been available at his trial, the jury probably would have found Avila not guilty. The case now moves back to the CCA.

“It is clear that prosecutors and the public are turning away from the death penalty,” said Houlié. “At this critical moment in our state’s experience with the death penalty, concerned citizens and elected officials should take a closer look at the realities of this irreversible, arbitrary, and costly punishment and pursue alternative means of achieving justice.”

TCADP is a statewide grassroots advocacy organization based in Austin.

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Texas Death Penalty Developments in 2018: The Year in Review is available online at <https://tcadp.org/wp-content/uploads/2018/12/Texas-Death-Penalty-Developments-in-2018.pdf>.

Previous year-end reports are available here: <https://tcadp.org/get-informed/reports/>.

A new report from the Death Penalty Information Center regarding national developments - "The Death Penalty in 2018: Year End Report" - is available at <https://deathpenaltyinfo.org/YearEnd2018>.