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**Texas's death penalty mired in a mess of its own making as inconsistencies, dysfunction
continue to plague system**

*More than three-fourths of scheduled executions in Texas halted in 2021 because of intellectual disability
or religious freedom claims*

Austin, Texas - Use of the death penalty in Texas remained near historic low levels this year, with juries sentencing three people to death and the state executing three people, according to a [new report](#) from the Texas Coalition to Abolish the Death Penalty (TCADP).

Unlike last year, the small number of executions in 2021 is not attributed to the COVID-19 pandemic. Instead, the state's ongoing challenges involving the assessment of intellectual disability in capital cases and concerns surrounding the free exercise of religion in the execution chamber resulted in stays or withdrawals of more than three-fourths of Texas's scheduled executions this year.

"Texas's death penalty is a mess – and it's a mess of its own making. Inconsistencies, arbitrariness, and dysfunction continue to plague the capital punishment system at a tremendous cost," said Kristin Houlé Cuellar, TCADP Executive Director and author of [Texas Death Penalty Developments in 2021: The Year in Review](#). "Individuals whose cases are rife with errors, unfairness, and the unequal application of the law are still coming within days of being put to death by a state more concerned about what a pastor might say in the execution chamber than the protection of constitutional rights."

After more than 10 months without an execution, Texas put Quintin Jones to death on May 19, 2021, despite a public outcry of support for clemency and pleas for mercy from the victim's family. Disturbingly, the execution took place without any media witnesses present, which the Texas Department of Criminal Justice (TDCJ) attributed to miscommunication and a lack of training.

The execution of Jones also was the first to occur under TDCJ's revised Execution Procedure. In April, just over two years since it had removed all chaplains from the execution chamber, the Correctional Institutions Division once again changed course. It now allows for a TDCJ chaplain or a spiritual advisor of an individual's choosing to be present in the chamber during the execution. This revised policy opened the door to new litigation, however, after it came to light TDCJ would not allow spiritual advisors to pray aloud or offer physical comfort during an individual's last moments.

The U.S Supreme Court stayed the September 8 execution of John Ramirez after he claimed the prohibition on spoken prayers and touch prevented the free exercise of his religious beliefs. With the exception of the execution of Rick Rhoades on September 28, all subsequent executions scheduled for this year were stayed or withdrawn pending a ruling in *Ramirez v. Collier*, which was argued before the High Court on November 9.

At the beginning of the year, the Texas Court of Criminal Appeals stayed three executions in a row to consider long-standing claims involving intellectual disability. The U.S. Supreme Court's decisions in 2017 and 2019 in *Moore v. Texas* required the state to change the way it assesses intellectual disability in capital cases, but some intractable prosecutors are still seeking execution dates for individuals who present evidence of intellectual disability. It was the first time since 2008 the State of Texas did not carry out any executions in the first three months of the year.

Post-conviction challenges moved forward in district courts, as well as in state and federal appellate courts, with uneven – often wildly disparate – outcomes. Some individuals received relief from their convictions and/or death sentences after raising claims related to prosecutorial or judicial misconduct, deficient legal representation, or innocence, while others who presented similar claims were denied.

As decades-old cases wind their way through the courts, Texas's death row population continues to drop, falling this year to its lowest level since 1985. The decline has resulted from dwindling new death sentences coupled with the resentencing of dozens of people who have been removed from death row based on evidence of their intellectual disability, trial errors, or other issues reflecting the state's legacy of injustice. Over the past five years, Texas has executed 35 people while 31 people have been resentenced or died in prison, exemplifying the ultimate futility and randomness of the death penalty.

Death sentences have remained in the single digits for the past seven years. Just fifteen Texas counties have imposed death sentences since 2017. Of these, only three counties (Harris, Smith, and Walker) account for more than one new death sentence.

The three death sentences imposed this year came from Bexar, Hunt, and Smith counties. Two of the defendants sentenced to death are Black and one is white. Even as death sentences in Texas decline, they are still applied disproportionately to people of color. Over the last five years, two-thirds of death sentences have been imposed on people of color; 40% were imposed on Black defendants.

“As Texas moves away from the death penalty, what remains is an arbitrary, unfair, and biased punishment that puts innocent lives at risk, disproportionately impacts Black defendants and those with intellectual disability, and refuses to recognize the humanity of those condemned by society,” said Cuellar. “Given this continued dysfunction, the current pause in executions as the U.S. Supreme Court considers the exercise of religion in the execution chamber should compel Texans to conclude it is time for the state to abandon the death penalty altogether.”

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TCADP is a statewide grassroots advocacy organization based in Austin. Read the full report at <https://tcadp.org/get-informed/reports/>.