

Facts About the Broken Federal Death Penalty System and Why President Biden Should Commute Federal Death Sentences

President Joe Biden has the opportunity to fulfill his promise and secure his legacy by commuting all federal death sentences before he leaves office. The federal death penalty, like state capital punishment systems, is racially biased, error-prone, harms correctional staff and victims' families, drains public resources, and neither deters crime nor makes communities safer.

By commuting all federal death sentences, President Biden will show clear moral leadership and move America in the direction of justice and humanity.

Like the state systems, the federal death penalty is disproportionately imposed upon [people of color](#).

- Although Black adults comprise only 10% of our nation's population, they account for 38% of the people currently under federal death sentence.
- There are still Black men on federal death row who were sentenced by all-white juries.
- 55% of the people on federal death row are people of color.
- Many of those on federal death row today were sentenced as a result of the excessive policies of the past that produced widely condemned over-incarceration, particularly of Black men.

Like the state systems, the federal death penalty is concentrated in a few [high-use regions](#).

- 26 of 40 current federal death sentences were imposed in just three of the 12 federal circuits – the Fourth, Fifth, and Eighth.
- A disproportionate number of current death sentences—43 percent—were issued in just three states: Texas, Virginia, and Missouri. Prisoners from those same states account for 63% of those executed by the federal government in the modern era.
 - In Texas, 75% of all federal death sentences in the modern era have been meted out to people of color; in Virginia and the Eastern District of Missouri, all of them have been.

Like the state systems, the federal death penalty system is broken.

- The Department of Justice has amended its criteria for pursuing a death

sentence at the federal level in an attempt to focus more accurately on cases with a significant national interest.

- However, the government has not taken a fresh look at the cases of those on federal death row.
- In addition to the myriad problems evident in their cases, the vast majority of people on federal death row would not be capitally prosecuted under the standards the DOJ applies today.
- Nearly one in four individuals currently on the federal death row was 21 years old or younger at the time of the offense. Of those who were 21 or younger, 67% are people of color.
- The federal death penalty is frequently employed where there is no compelling federal interest, including where the federal connection is tenuous; where the victim was an intimate partner; or where the defendant was already serving a long state prison sentence for the same homicide.
- Prosecutors have relied on faulty forensic evidence, or “junk science,” to obtain federal capital convictions and death sentences, including hair later found not to belong to the defendant and so-called “bullet-matching” evidence debunked by the National Academy of Sciences.
- Like their state counterparts, numerous people sentenced to death federally were represented by lawyers who made grievous mistakes in investigation and at trial, including failures to learn that charges were based on erroneous evidence; that their clients had brain damage; or that the defendant had an intellectual disability and was therefore ineligible for the death penalty altogether.
- Federal death row prisoners often receive less judicial scrutiny of their convictions and sentences than do state prisoners. In the one post-conviction proceeding to which they are entitled, they are routinely denied any meaningful process or the right to appeal.
- Almost all the people on federal death row were raised in profoundly adverse circumstances. Many spent their childhoods in extreme poverty, experienced abuse and severe neglect, witnessed pervasive violence in their homes and communities, or suffer from untreated, long-standing serious mental illness.

As long as there are people on federal death row, we risk executing an innocent person.

- 200 innocent people have been exonerated from America’s death rows over the past 50 years.

- A majority of all death row exonerees have been Black or Latino.
- Recent cases in the states, including the execution of Marcellus Williams in Missouri, the near execution of Robert Roberson in Texas, and the ongoing battle over whether Richard Glossip will receive a new trial in Oklahoma underscore the very real risk of wrongful executions.

Executions harm the correctional staff charged with carrying them out and the larger prison community.

- Executions take a devastating toll on corrections staff and others involved in the execution process.
- Proximity to executions is known to increase anger, depression, substance abuse, physical illness, and even suicide among corrections staff.
- This trauma reverberates throughout and beyond the prison community. Correctional staff not directly involved in carrying out the execution are impacted, as are the families of corrections officers and the communities in which executions take place.
- The trauma from executions is even worse when executions occur frequently and in close proximity to one another, or when the procedure does not go smoothly.

Death penalty cases do not serve the needs of victims' families.

- Many murder victim family members have spoken out about the damaging effects of capital punishment and have urged policy makers to instead redirect public funds to mental health and other services for survivors.
- Some victims' family members spoke out about the federal government's recent executions as "retraumatizing." Family members of victims in other recent federal death penalty cases have expressed similar views.
- The resources devoted to capital prosecutions and death sentences could be better spent on programs and services that actually work to prevent crime, on providing desperately needed support to survivors of violence, and on improving the infrastructure of our federal prisons.

The federal death penalty drains resources without deterring crime or making communities safer.

- The death penalty is an inadequate and ineffective response to violent crime. According to [the Death Penalty Information Center](#), studies consistently show that the death penalty does not deter homicides.
- States without the death penalty have [lower homicide rates](#) than states with the death penalty.
 - It is also worth noting that homicide rates dropped dramatically in 2023 after a spike during the pandemic and have continued to fall.
- A growing number of [prosecutors](#) are urging an end to capital punishment as part of “smart on crime” reforms aimed at making effective use of public funds to improve community safety.
- In 2009, a national poll of [police chiefs](#) revealed that the death penalty sits at the bottom of their law-enforcement priority lists.
- Community violence-prevention advocates [recognize](#) that capital punishment drains limited resources away from evidence-based programs that actually work to make communities safer.
 - Death penalty prosecutions [cost more](#) than non-death-penalty murder cases at every stage of the process, from arrest through prosecution as well as the period of pre-execution incarceration. Taxpayers bear virtually all of these costs.
 - Federal capital prosecutions in particular are highly resource-intensive for federal law enforcement agencies. In addition to the lawyers and investigators from local U.S. Attorneys’ offices, counsel from the central Justice Department are usually assigned to the case, and agents from the FBI, DEA, or ATF are also regularly activated.

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