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New Report Documents How the Federal Death Penalty Continues Historical Discrimination and Racial Legacy of Lynching

WASHINGTON, D.C. - Drawing a direct connection between the extra-judicial lynchings and racial disparate policies of the past and the active federal death sentences in the present, the Death Penalty Information Center (DPI) today released a report documenting how the federal death penalty was historically used to subjugate Black and Native American people, and describes how that legacy continues to inform the current administration of the death penalty.

The report, “Fool’s Gold: How the Federal Death Penalty Has Perpetuated Racially Discriminatory Practices Throughout History,” and “Five Facts You Should Know About the Federal Death Penalty” are available at: <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/dpic-special-reports/fools-gold-federal-racial-justice-report>.

The federal death penalty has been called the “gold standard” of capital punishment systems because its supporters claim it provides the highest quality legal representation for those accused only of a narrow set of exceptional crimes. In reality, DPI’s close examination of the data and documentation of historical use reveal that the federal death penalty has the same longstanding, systemic problems as state death penalty systems, including arbitrariness, ineffective legal representation, and racial bias. In addition to powerful statistics, the new report also profiles federally death-sentenced individuals who highlight the role of racial discrimination across the federal death penalty system.

"This report exposes the deeply embedded racial discrimination within the federal death penalty. Our findings reveal that the same historical biases and inequities that marred the federal death penalty’s origins persist today, with Black and Native American people bearing the brunt of its application," said Tiana Herring, DPI’s Racial Justice Data Storyteller and the lead author of the report.

As the report documents, racial discrimination has been a throughline in the application of the federal death penalty since its inception. Native Americans resisting colonization were targeted by the federal government, often in mass executions. In 1873, six members of the Modoc tribe in Oregon were executed. Documentation of the execution notes that because of their resistance, “All negotiations were called off. The old policy of extermination of all renegade Indians was restored.”

After the Civil War, the number of Black people executed by the federal government increased 488% between 1862 and 1899. More than half of all federal executions were

concentrated in Washington, D.C., where Black Americans had sought refuge from southern racial violence.

Today, the most active death-sentencing federal jurisdictions were once the nation's leaders of extra-judicial lynchings. A small number of jurisdictions in Texas, Missouri, and Virginia account for 43% of all active federal death sentences, primarily targeting people of color. In Texas, 75% of all federal death sentences have been imposed on people of color. In the Eastern District of Virginia, the Western District of Virginia, and the Eastern District of Missouri, every single person federally sentenced to death was a person of color.

Race plays a prominent role, beginning with who is authorized for capital prosecution to who is ultimately sentenced to death. As noted in the report, 73% of all authorized federal death penalty cases since 1989 have been for non-white defendants. One study concluded that a federal capital trial was more than twice as likely to result in a death sentence when a case involved a white female victim, reminiscent of the days when Black men faced extralegal violence if accused of harming white women.

This report challenges the common assumption that the federal death penalty is reserved only for the most serious crimes with a substantial federal interest, such as terrorism. An expansion of the federal death penalty in the 1990s added more than 60 crimes that carried a potential death sentence and the death penalty cases the federal government decides to pursue are rarely "exceptional" compared to the cases tried at the state level.

The federal death penalty has increased relevance following the recent presidential election. In the waning months of his first term, President Donald Trump restarted federal executions for the first time in nearly two decades and executed 13 people in just six months. Seven of the 13 people executed were either Black or Native American. Upon taking office in January 2025, President-elect Trump has promised to resume and expand use of the federal death penalty. President Joe Biden campaigned on the promise to end the federal death penalty but has not yet taken action. President Biden has the authority to commute the death sentences of some or all of the men on death row before he leaves office in January 2025.

"We hope that elected officials will seriously consider this in-depth study of the historical and modern-day use of the federal death penalty before making any decisions about future use," said Robin M. Maher, DPI's Executive Director.

Today's report builds upon DPIC's 2020 report, ["Enduring Injustice: The Persistence of Racial Discrimination in the U.S. Death Penalty."](#) It is the fifth in a series of reports detailing how histories of racial injustice inform the current use of capital punishment. Previous reports in this series focused on individual states' death penalty systems and application, including reports on [Ohio](#), [Tennessee](#), [Missouri](#), and [Oklahoma](#).

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The **Death Penalty Information Center** (DPI) is a national non-profit organization whose mission is to serve the media, policymakers, and the general public with data and analysis on issues concerning capital punishment and the people it affects. DPI does not take a position on the death penalty itself but is critical of problems in its application.

Founded in 1990, DPI promotes insightful discourse on the death penalty by curating and presenting expansive, authoritative data from credible sources and offering clear, trustworthy, and timely information and research about the history and current application of the death penalty. DPI produces groundbreaking [reports](#) on issues such as arbitrariness, costs, innocence, and racial disparities. DPI also releases an annual year-end report highlighting significant developments and trends. A wide variety of free online resources are available on DPI's award-winning website, including searchable databases; data visualizations; [educational curricula](#); and podcast series, *Discussions with DPIC*, which explores diverse viewpoints and experiences related to capital punishment.