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DEATH PENALTY INFORMATION CENTER

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Electoral Process Creates Arbitrary and Unjust Results in Death Penalty, Raising Constitutional Concerns

Elections Affect Death Penalty Outcomes

WASHINGTON —Today, the Death Penalty Information Center released a new report, *Lethal Election: How the U.S. Electoral Process Increases the Arbitrariness of the Death Penalty*, flagging serious concerns about how elections affect the use of the death penalty.

The Report uses new data and analysis on appellate rulings and grants of clemency, as well as individual stories and case studies from across the country, to reveal how electoral politics distort the fairness and accuracy of capital punishment, and how decreasing public support for the death penalty is changing the picture.

Read *Lethal Election: How the U.S. Electoral Process Increases the Arbitrariness of the Death Penalty* at <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/lethal-election>

The United States stands alone internationally in electing prosecutors and no other country elects judges in similar partisan, expensive judicial elections. The realities of campaigning for elected office, combined with the outsized influence of money in U.S. elections, appear to influence decisions by elected officials who make critical decisions in death penalty cases.

“The U.S. electoral process inserts many elements of unpredictability and unfairness into death penalty cases. A life-or-death decision should not depend on whether an appeal or clemency petition is heard in an election year, nor should a defendant’s fate rest on who donated money to an official’s campaign fund,” said Robin M. Maher, Executive Director of the Death Penalty Information Center. “But the data suggest that is exactly what is happening.”

The report traces the shift in public opinion, political rhetoric, and the use of the death penalty over the last 30 years. “Tough on crime” stances, including support for the death penalty, were once seen as essential for political success, but that is no longer true in all jurisdictions, as evidenced by the declining use of capital punishment and the rise of the reform prosecutor movement. While use of the death penalty is not as important to voters as it once was, the

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practicalities and pressures of elections continue to affect the behavior of officials and candidates, to the detriment of defendants facing a possible death sentence.

Lethal Election includes findings from original research on state supreme court rulings in Georgia, North Carolina, and Ohio. The Death Penalty Information Center found that elected supreme court justices in those states affirm twice as many death sentences during an election year than in any other year. In a new analysis of clemency data, the Death Penalty Information Center has also found that a majority (56%) of clemency grants were made by executives who were not running for reelection. The effect was strongest when executives with sole authority to grant clemency issued individual grants; 84.6% of those clemencies were granted when the executives did not face reelection, and when executives did face reelection, they only granted clemency four times in 50 years.

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Members of the media who would like to arrange an interview with Robin M. Maher, the Executive Director of the Death Penalty Information Center, contact Hayley Bedard at hbedard@deathpenaltyinfo.org or 202-289-2275.

The Death Penalty Information Center 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. The organization does not take a position on the death penalty itself but is critical of problems in its application.