

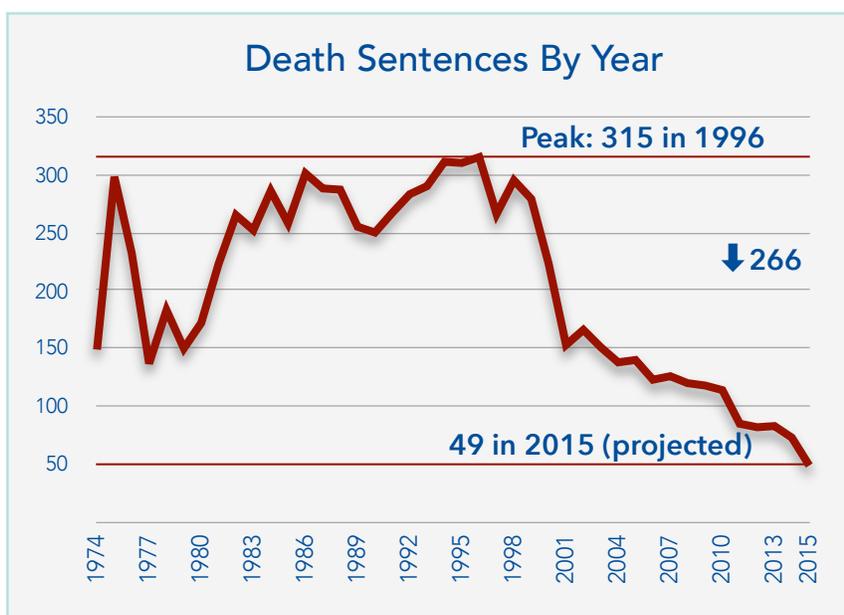
THE DEATH PENALTY IN 2015: YEAR END REPORT

DEATH PENALTY USE IN 2015 DECLINES SHARPLY

FEWEST EXECUTIONS, FEWEST DEATH SENTENCES, AND FEWEST STATES EMPLOYING THE DEATH PENALTY IN DECADES

KEY FINDINGS

- There were 28 executions in 6 states, the fewest since 1991.
- There were 49 death sentences in 2015, 33% below the modern death penalty low set last year.
- New death sentences in the past decade are lower than in the decade preceding the Supreme Court's invalidation of capital punishment in 1972.
- Six more former death row inmates were exonerated of all charges.



U.S. DEATH PENALTY DECLINE ACCELERATES IN 2015

Executions by State	2015	2014
Texas	13	10
Missouri	6	10
Georgia	5	2
Florida	2	8
Oklahoma	1	3
Virginia	1	0
Ohio	0	1
Arizona	0	1
Totals	28	35

By all measures, use of and support for the death penalty continued its steady decline in the United States in 2015. The number of new death sentences imposed in the U.S. fell sharply from already historic lows, executions dropped to their lowest levels in 24 years, and public opinion polls revealed that a majority of Americans preferred life without parole to the death penalty. Opposition to capital punishment polled higher than any time since 1972.

The numbers also pointed to the increasing geographic isolation of the death penalty and its disproportionate overuse by a handful of jurisdictions. Fewer states and counties imposed death sentences, and 93% of executions were concentrated in just 4 states. 16% of all the new death sentences imposed in the country came from a single California county and – while nearly every state requires juries to unanimously agree to a death sentence – more than a quarter of the nation’s new death sentences were imposed by judges in two states after juries did not unanimously agree on death. Nearly two-thirds of the new death sentences in the U.S. in 2015 were imposed in the same 2% of American counties that have disproportionately accounted for more

than half of all U.S. death sentences in the past.

The national trend towards abolition of the death penalty in law or practice continued: Nebraska legislatively abolished the death penalty; the Connecticut Supreme Court declared its death penalty unconstitutional; and Pennsylvania joined three other states in imposing gubernatorial moratoria on executions. For the first time in a generation, there were fewer than 3,000 men and women on death rows nationwide. Six more men and women were exonerated from death row. And as two Justices of the Supreme Court issued an historic opinion inviting systemic constitutional challenges to the death penalty in America, numerous additional states put executions on hold because of problems in obtaining execution drugs or in administering their execution protocols.

NEW DEATH SENTENCES

New death sentences in the United States have fallen to historic lows. With less than two weeks remaining in 2015, and few cases pending, 14 states and the federal government have imposed 49 new death sentences. This was a 33% decline from the 73 death sentences imposed in 2014 – itself already a 40-year low. The number of new death sentences imposed in the U.S. in 2015 was the fewest in any single year since 1973, when states began enacting new capital sentencing statutes in response to the Supreme Court’s

49 new death sentences were imposed in 2015, a 33% decline from what was already a 40-year low.

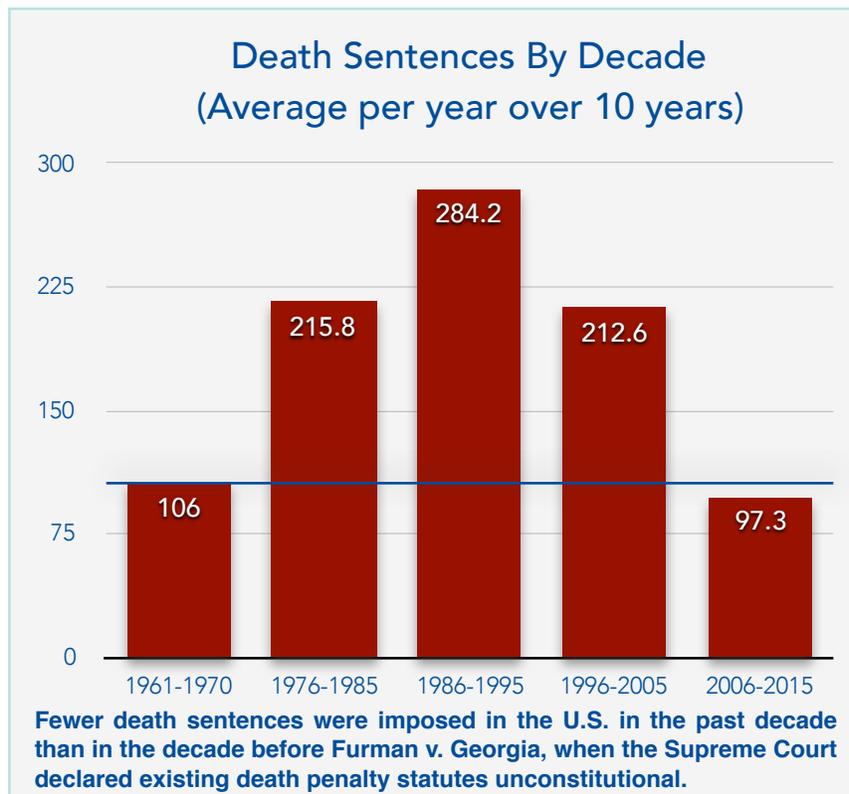
1972 decision in *Furman v. Georgia* declaring all existing death penalty statutes unconstitutional. New death sentences were 84% below the 315 death sentences imposed during the peak death-sentencing year of 1996 (see graph, *Death Sentences by Year*, on page 1).

This was the fifth consecutive year in which fewer than 100 death sentences were imposed in the U.S. **The country has now imposed fewer death sentences in the past ten years than in the decade of the 1960s leading up to the Furman decision** (see graph, *Death Sentences by Decade*, below).

Outlier practices in 3 states, **California (14)**, **Florida (9)**, and **Alabama (6)** accounted for more than half of all new death sentences in the country. 13 of the California death verdicts were concentrated in 4 Southern California counties, each of which ranks among the 15 U.S. counties with the highest number of death sentences since 2010. Riverside County, California, by itself imposed 8 death sentences, 16% of all the new death sentences in the nation and more than were imposed by any state but Florida. 63% of the new death sentences (31) came from the tiny 2% of counties responsible for more than half of all the death-sentenced inmates in the United States.

Death Row By State (7/1/15)	2015
California	746
Florida	400
Texas	265
Alabama	195
Pennsylvania	183
N. Carolina	156
Ohio	146
Arizona	124
Georgia	84
Louisiana	83
Nevada	78
Tennessee	72
US Government	62
Oklahoma	50
Mississippi	48
S. Carolina	44
Missouri	31
Arkansas	36
Oregon	35
Kentucky	34
Delaware	17
Indiana	14
Connecticut*	12
Idaho	11
Nebraska	10
Kansas	9
Utah	9
Washington	9
Virginia	8
US Military	6
S. Dakota	3
Colorado	3
Montana	2
New Mexico*	2
New Hampshire	1
Wyoming	1
Total	2,984

*abolished death penalty data from NAACP Legal Defense and Educational Fund



More than 20% of death sentences imposed in the U.S. since 2010 have been the product of non-unanimous jury recommendations of death – a practice barred in all states but Florida, Alabama, and Delaware. Those states collectively imposed 16 death sentences this year. If they had required unanimous jury death verdicts, as in every other death penalty state, 3 would have been imposed. **More than a quarter of all U.S. death sentences in 2015 were cases in which juries did not unanimously recommend death.**

Arizona (3) and Oklahoma (3) were the only other states to impose more than two new death sentences in 2015. Even states that conducted executions exhibited signs of the death penalty's continuing decline, imposing half as many new death sentences as the number of executions they carried out. **Texas imposed only two new death sentences in 2015,**¹ the fewest ever under its current death penalty statute and 96% below its peak total of 48 in 1999.

18 death penalty states imposed no death sentences in 2015, including 3 – **Georgia, Missouri, and Virginia** – that had conducted executions. Juries in **Colorado and Washington** imposed life sentences after protracted capital trials in 4 high-profile cases, and neither state imposed any death sentences this year. **Other death penalty states that imposed no death sentences in 2015 were: Idaho, Indiana, Kentucky, Montana, Nebraska, New Hampshire, North Carolina, Oregon, South Carolina, South Dakota, Tennessee, Utah, and Wyoming.**



EXECUTIONS

Executions dropped by 20% compared to 2014, from 35 to 28, marking the first time in 24 years that fewer than 30 executions were carried out in the United States. It was 12th time in the past 16 years that the number of executions has declined.

The number of states conducting executions also continued to decline, and executions were concentrated in fewer and fewer states. Only 6 states carried out any executions in 2015, the fewest number since 1988, and 70% below the 20 states that executed inmates in 1999. Three states, **Texas** (13), **Missouri** (6), and **Georgia** (5) accounted for 86% of the country's executions in 2015 – and just four states, **Texas** (23), **Missouri** (16), **Florida** (10), and **Georgia** (7) have conducted 89% of all U.S. executions in the past two

In 2015, only 6 states carried out executions, the fewest number of states in more than a quarter century.

years.

At least 70 death-row prisoners with execution dates in 2015 received **stays, reprieves, or commutations**, 2.5 times the number who were executed.

¹A Bexar County, TX, jury returned a verdict of death for a third defendant, Mark Anthony Gonzalez, on October 20. However, whether he is formally sentenced to death is dependent upon the outcome of a hearing on his mental competency, which the trial court has scheduled for January 2016.

Three-fifths (60%) of those executed in 2015 were black or Latino. Only 6 of the 28 executions (21%) involved cases in which black victims had been murdered, even though generally almost half of murder victims in the U.S. are black. 29% of the executions (8) involved interracial murders of at least one white victim.

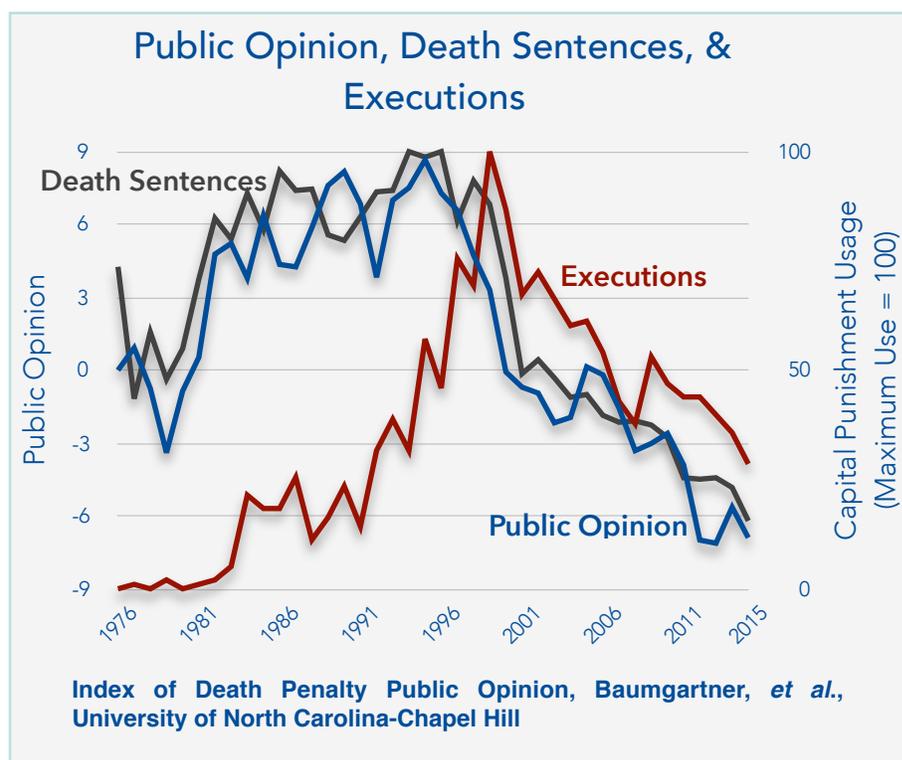
PUBLIC OPINION AND THE DEATH PENALTY

Support for the death penalty, as measured by public opinion polls, continued to fall in 2015. While a 56-61% majority of respondents to 2015 polls by [Gallup](#) and the [Pew Research Center](#) reported that they supported the death penalty in the abstract, those figures were close to 40-year lows and were nearly 20 percentage points below peak levels of support for the death penalty in the 1980s and 1990s. In the Gallup poll, opposition to the death penalty was at the highest levels since its 1972 poll, taken in the months leading to the Supreme Court's decision overturning existing death penalty statutes.

The 2015 [American Values Survey](#) by the Public Religion Research Institute reported that, when asked the policy question which sentence did they prefer as punishment for people convicted of murder, a majority of Americans favored life without parole over the death penalty.

Polls in areas historically considered death penalty hotbeds also revealed dramatic changes in public attitudes. A report by the [Kinder Institute for Urban Research](#) at Rice University found that only 28% of respondents in Harris County (Houston) – which has executed more prisoners than any other county in the United States – say they now prefer the death penalty to life without parole as punishment for first-degree murder. And a survey by [SoonerPoll.com](#), taken in the wake of Oklahoma's execution scandals, found that an 18-percentage-point majority of Oklahomans would support abolition of the death penalty if capital punishment were replaced with the alternative sanction of life without parole, plus a requirement that the inmates pay restitution to victims' families.

A new index of death penalty public opinion, based upon a comprehensive [University of North Carolina analysis](#) of nearly 500 national public opinion surveys on the death penalty, documented the close relationship between the historical drop in public support for the death penalty and steep nationwide declines in executions and new death sentences.



DEATH ROW NATIONWIDE

The number of people on **death row** continued to decline, **dropping below 3,000** for the first time since the Spring of 1995, according to quarterly surveys by the NAACP Legal Defense and Educational Fund. As of July 1, 2015, there were 2,984 inmates on death rows across the country. The total population on death row has decreased every year since 2001. In 2000, 3,670 inmates were under a sentence of death. About 57% of death row is made up of minorities. California (746) has the largest death row, followed by Florida (400) and Texas (265).

At the start of the year, 3 states had inmates on death row, but had barred the death penalty for future cases (New Mexico, Connecticut, and Maryland). This year, outgoing Governor Martin O'Malley commuted the death sentences of Maryland's four remaining death-row inmates. In August, the Connecticut Supreme Court declared executions of death-row inmates under the state's now-repealed death penalty to be a violation of its state constitution. Nebraska legislatively repealed its death penalty statute over the veto of Governor Pete Ricketts. Proponents of capital punishment succeeded in suspending the

"If the Commonwealth of Pennsylvania is going to take the irrevocable step of executing a human being, its capital sentencing system must be infallible. Pennsylvania's system is riddled with flaws, making it error prone, expensive, and anything but infallible."

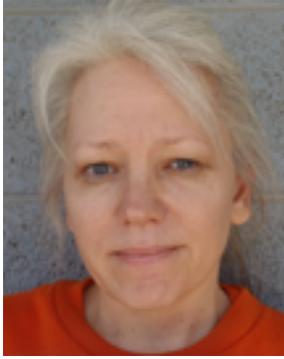
—Governor Tom Wolf, announcing moratorium on executions in Pennsylvania

repeal, pending a voter referendum in November 2016, and the status of the state's death row inmates remains uncertain. Pennsylvania Governor Tom Wolf declared a moratorium on executions, joining Colorado, Oregon, and Washington as states in which governors have put executions on hold.

INNOCENCE AND THE DEATH PENALTY IN 2015

EXONERATIONS IN 2015

Six former death row prisoners were [exonerated in 2015](#), one each from Alabama, Arizona, Florida, Georgia, Mississippi, and Texas. They collectively spent more than a century on death row, and an average of 19 years in prison as a result of their wrongful convictions. Since 1973, [156 men and women](#) from 26 states have been exonerated from death row. Police and prosecutorial misconduct continued to plague wrongful capital convictions, significantly contributing to at least 12 of the past 14 death-row exonerations. This year's innocence cases also highlight persistent problems with racial bias, manipulation of witnesses, inaccurate forensic testimony, and incompetent defense.



Debra Milke was exonerated in Arizona on March 23, 2015, when a Phoenix judge dismissed all charges against her as a result of “egregious” police and prosecutorial misconduct. Milke spent 23 years on death row for allegedly arranging to have her 4-year-old son killed so she could collect insurance. The only evidence linking her to the murder was the testimony of a police detective with a long history of misconduct, including lying under oath. The state courts found the misconduct of the prosecution in withholding evidence so pervasive that they [barred a retrial of Milke](#).

Anthony Ray Hinton was released from prison on April 3, after spending nearly 30 years on **Alabama’s** death row. Hinton was wrongly convicted of the 1985 murders of two restaurant workers based on the testimony of a state forensic examiner who said the bullets in the two murders had come from a gun found in Hinton’s house. In 2002, three top firearms examiners testified that the bullets could not be matched to Hinton’s gun, yet the state continued to seek his execution for another 13 years. In 2014, the U.S. Supreme Court unanimously held that Hinton had been provided substandard representation and returned his case to the state. Prosecutors decided not to retry Hinton after the state’s new experts said they also could not link the bullets to Hinton’s gun



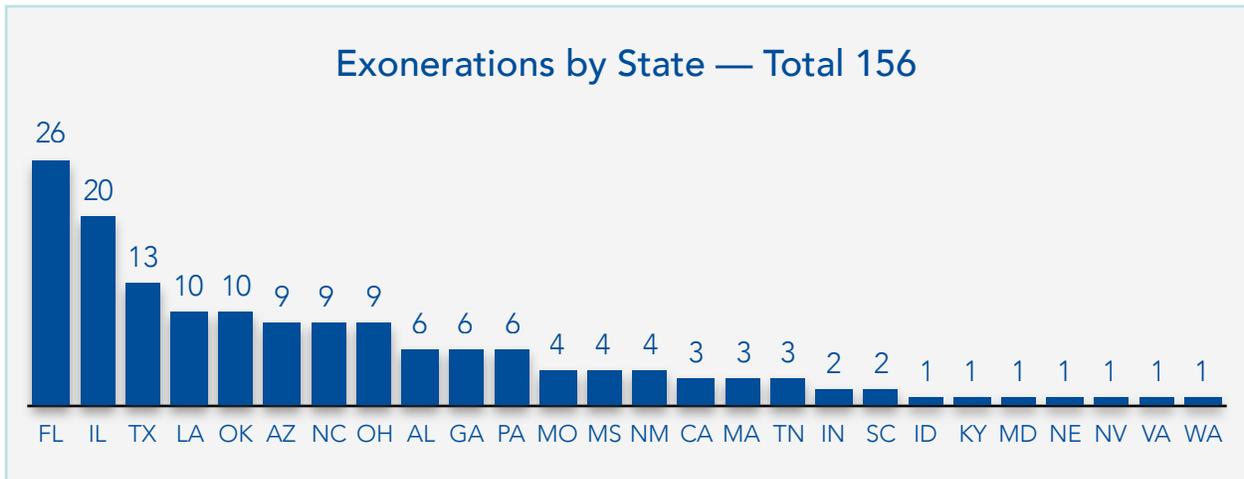
On April 21, **Mississippi** prosecutors dropped all charges against **Willie Manning for the murder of two black women** in an apartment complex. The Mississippi Supreme court had ruled he was entitled to a new trial because prosecutors had failed to disclose key exculpatory evidence to the defense. Manning’s innocence of the apartment murders almost did not come to light, as he came within hours of being executed for another double homicide that the evidence now suggests he also did not commit. He was granted a stay only after the FBI sent separate letters to the court disclosing flaws in both its ballistics and hair comparison testimony against Manning.

Alfred Brown was released from death row in **Texas** on June 8 after Harris County prosecutors dismissed all charges against him. Brown had been sentenced to death in 2005 for the murders of a Houston police officer and a store clerk during a robbery, but the Texas Court of Criminal Appeals overturned his conviction because prosecutors had failed to disclose a phone record that supported his alibi. The time of the phone call established that Brown could not have been at the store when the murder occurred.



[Lawrence William Lee](#) also was exonerated on June 8, when all charges against him were dismissed in Georgia for a triple murder committed during a home robbery. Lee had spent more than 27 years in prison, and more than 20 of those on death row. The state court overturned Lee’s conviction, finding a combination of failures by his trial lawyer and a “full spectrum of prosecutorial misconduct.”

On October 12, [Derral Hodgkins](#) became Florida’s 26th death-row exoneree—by far the most in the nation—after the Florida Supreme Court acquitted Hodges of all charges in the stabbing death of his former girlfriend based on insufficient evidence. The Court said the case against Hodgkins was completely circumstantial: no eyewitnesses placed him at the crime scene near the time of the murder; none of the 21 sets of fingerprints lifted from the crime scene matched his; and no evidence linked him to a bloody bottle found at the scene.



EXECUTIONS AND NEAR EXECUTIONS DESPITE SERIOUS DOUBTS AS TO GUILT

Even though executions in 2015 were at historic lows, significant doubts about the guilt of some of those who were put to death persisted. [Lester Bower](#) was executed on June 3 in Texas despite a reviewing court’s conclusion that “the new evidence produced by the defendant could conceivably have produced a different result at trial...[but] it does not prove by clear and convincing evidence that the defendant is actually innocent.” Similarly, [Marcus Johnson](#) was executed on November 19 in Georgia despite the trial court’s concerns that the evidence in his case “does not foreclose all doubt respecting the defendant’s guilt.”

[Richard Glossip](#) was nearly executed in **Oklahoma** even though serious questions remained as to his guilt. He was convicted solely on the testimony of Justin Sneed, who confessed to the crime and implicated Glossip in exchange for a plea deal that spared himself the death penalty. Glossip barely escaped execution, not because of his potential innocence, but because Oklahoma discovered it was about to use an unauthorized drug.

OTHER QUESTIONABLE EXECUTIONS UNDERSCORE SIGNIFICANT DEATH PENALTY PROBLEMS

The death penalty is supposed to be reserved for the worst of the worst crimes and the worst of the worst offenders. However, the executions that were carried out in 2015 underscored that, as administered today, it instead is often directed at those with the most crippling mental and emotional disabilities. Two-thirds of the 28 people executed in 2015 exhibited symptoms of severe mental illness, intellectual disability, the debilitating effects of extreme trauma and abuse, or some combination of the three. If not themselves constitutionally ineligible for the death penalty, their severe mental or emotional disabilities made them functionally indistinguishable from those whom the Supreme Court has said cannot be executed.

[Andrew Brannan](#), a decorated Vietnam veteran with a diagnosis of Post-traumatic Stress Disorder and a 100% mental disability recognized by the Veterans Administration, was the first person executed in 2015. In a bizarre incident, he killed a **Georgia** state trooper during a routine traffic stop after begging the officer to shoot him. He had been hospitalized at least twice for serious mental illness, probably caused and/or exacerbated by PTSD. At the time of the murder, he was living in the woods, without electricity or running water, in what was described as “a primitive homemade shack reminiscent of a bunker in Vietnam.” He was 66 years old when Georgia executed him.

Missouri executed [Cecil Clayton](#), a 74-year-old mentally ill man suffering from hallucinations, delusions, and dementia. Clayton literally had a hole in his head from a sawmill accident and was missing 20% of his prefrontal cortex – the part of the brain involved in impulse control, problem solving, and social behavior. After the accident, Clayton began experiencing violent impulses, schizophrenia, and paranoia so severe that he checked himself into a mental hospital. He had IQ of 71, which would have qualified him for a diagnosis of intellectual disability had it occurred before he reached age 18. Multiple doctors had found Clayton incompetent to be executed.

Missouri and Texas executed numerous other prisoners who exhibited clear symptoms of serious mental illness. Among them was **Andre Cole**, a black man who was sentenced to death by an all-white St. Louis County jury, who suffered from what a doctor described as “prominent symptoms of psychosis.” **Richard Strong**, whom Missouri executed over the dissents of 4 U.S. Supreme Court Justices, was psychotic and suffered from numerous mental disorders including PTSD, major depression, and schizotypal personality disorder. Texas executed **Kent Sprouse** and **Manuel Garza** despite extensive evidence of psychosis, as well as **Daniel Lopez**, who had attempted suicide multiple times beginning at age 10, refused a plea offer for a life sentence, waived his appeals, and volunteered to be executed.

States also executed a number of death-row prisoners who had presented significant evidence that, because of their intellectual disability, they were ineligible for the death penalty. Indeed, in the case of [Warren Hill](#), even the state’s mental health experts unanimously agreed that he was intellectually disabled. Although a **Georgia** state trial judge agreed that Hill had proven his disability by a preponderance of the evidence – the standard of proof in almost every state – Georgia required proving intellectual disability “beyond a reasonable doubt.” After the state courts held that Hill had not met that uniquely high burden

of proof and the federal courts declined to intercede, the Georgia board of pardons denied clemency and Georgia executed an intellectually disabled man.

Virginia also executed a likely intellectually disabled man after proceedings that had denied him a fair adjudication of his disability. [Alfredo Prieto](#), a foreign national diagnosed with severe PTSD and organic brain injury, had an IQ between 66 and 73. Virginia denied Prieto's claim of intellectual disability, however, applying a strict and scientifically invalid IQ cutoff score that the U.S. Supreme Court later rejected in another case. Prieto was executed while his appeal of the state's execution process was still pending before the U.S. Supreme Court and despite a ruling by the Inter-American Commission on Human Rights that his execution without a proper determination of intellectual disability would violate international human rights law.

Several death-row prisoners who presented significant evidence of intellectual disability were executed in **Texas** in 2015. They included: **Charles Ladd**, whose IQ tested at 67 at age 13 and who had been described by a psychiatrist employed by the state as "[rather obviously retarded](#)"; **Juan Garcia**, who was 18 years old at the time of his offense and had an IQ score of 75; and **Derrick Dewayne Charles**, who had been hospitalized at least twice as a child as a result of mental illness and had been described as placing "in the intellectually deficient range of intelligence" with a "strong possibility" of organic brain damage. **Missouri** attempted to execute [Ernest Johnson](#), despite strong lifelong evidence of intellectual disability. On the day of his scheduled execution, however, the U.S. Supreme Court [granted him a stay](#) to permit him to pursue an appeal arguing that a tumor, lesions, and scarring in his brain create a substantial risk that he will suffer seizures and extreme pain if executed with the lethal injection drug pentobarbital.

The **Georgia** execution of **Kelly Gissendaner** and **Oklahoma's** aborted attempt to execute **Richard Glossip** highlighted issues of proportionality and fairness in the manner states apply the death penalty. In those cases, states sought to execute defendants who had not themselves committed the killing, while sparing the life of the actual killer in exchange for his self-interested cooperation with the prosecution.

These two cases also highlighted continuing serious problems in the manner in which states carry out executions. **Georgia** initially postponed **Gissendaner's** execution on March 2, just hours before it was scheduled to take place, when correctional officials became concerned that the lethal injection chemicals provided by its anonymous supplier appeared cloudy. **Oklahoma** stopped **Glossip's** execution moments before it was scheduled to take place after prison officials learned that the state's anonymous supplier of lethal injection drugs had substituted an unauthorized execution drug for the drug mandated by state law. It was later discovered that **Oklahoma** had illegally executed **Charles Warner** months before with the same unauthorized drug.

On December 8, a nurse assigned to the execution of **Brian Terrell** took an hour to place the IVs. Unable to find a vein in his right arm, she inserted the IV in Terrell's right hand as he winced several times. Terrell – who has consistently asserted his innocence – raised his head and mouthed "Didn't do it" just before the execution chemicals were administered.

ACTIVITY IN THE STATES

On June 29, the Supreme Court decided [*Glossip v. Gross*](#), a challenge brought by **Oklahoma** death-row prisoners to that state's use of the chemical midazolam as part of its three-drug execution protocol. In a 5-4 vote, the Court permitted future executions under Oklahoma's protocol, deferring to the lower court's preliminary findings about the risks of midazolam and holding that the prisoners had not identified any "known and available alternative method" of execution that had a lower risk of pain.

Though the majority opinion was constitutionally narrow, it was accompanied by a [sweeping dissent](#) by Justices Stephen Breyer and Ruth Bader Ginsburg questioning the constitutionality of the death penalty and inviting briefing on whether the punishment, as administered, still comports with contemporary societal values. Among the issues Justice Breyer stressed was the growing abandonment of the death penalty in law and practice. He wrote that a majority of states had now either abolished the death penalty in law or had not executed anyone in at least 8 years.

On May 28, 2015, the **Nebraska** unicameral legislature overrode the veto of Governor Pete Ricketts and [repealed the state's death penalty law](#). Death penalty proponents successfully petitioned to suspend the repeal law pending the outcome of a voter referendum on the issue, which is scheduled for November 2016.

In **Delaware**, the state senate passed a bill to repeal Delaware's death penalty for future offenses. Calling the death penalty "[an instrument of imperfect justice](#)," **Gov. Jack Markell** said he will sign the bill if it passes the House, where it is currently tabled in committee. **Montana** legislation to repeal the death penalty fell one vote short in the state house, with a 50-50 tie vote.

On February 13, **Pennsylvania Gov. Tom Wolf** announced that he would reprieve all executions, [imposing a moratorium](#) until a study on the death penalty is completed and reforms enacted. One week later, **Oregon's** new **Governor, Kate Brown**, announced that she would [continue to enforce the moratorium](#) imposed by former Gov. John Kitzhaber in 2011.

Following the *Glossip* decision, the **Connecticut** Supreme Court ruled the [death penalty unconstitutional](#) under Connecticut's state constitution. In the 4-3 decision, the Court said that, because of the **prospective repeal** of the death penalty in 2012 and "the state's near total moratorium on carrying out executions over the past fifty-five years, capital punishment has become incompatible with contemporary standards of decency in Connecticut." As a result, the Court said, it "now violates the state constitutional prohibition against excessive and disproportionate punishments." The ruling applied to the prisoners who remained on the state's death-row after the repeal bill became law.

Maryland Governor Martin O'Malley [commuted the death sentences](#) of the four inmates who remained on that state's death row after the legislature had prospectively abolished capital punishment in 2013. They are now sentenced to life without parole.

Missouri Governor Jay Nixon [commuted the death sentence](#) of **Kimber Edwards** to life without parole on October 2. Edwards had consistently professed his innocence after giving what his lawyers said was a coerced confession. His case was tainted by persistent evidence of racial bias: Edwards was one of 7 black men on death row from St. Louis County, which studies suggested has disproportionately imposed the death penalty against black

defendants, and he had been sentenced to death by an all-white jury after prosecutors used their discretionary strikes to remove potential black jurors.

With American pharmaceutical companies [refusing to sell medicines](#) to states for use in executions and demanding that states return drugs improperly obtained for executions, and with European Union regulations banning export of pharmaceuticals for executions in the U.S., legislators in a number of states introduced [new bills](#) to change state execution practices. These bills ran the gamut from adopting new methods of execution or making secret the identity of execution drug suppliers to abolishing the death penalty altogether.

In March, **Utah** adopted a law to reinstate [the firing squad](#) as its method of execution if lethal injection was declared unconstitutional. **Oklahoma** followed in April with a law making [asphyxiation with nitrogen gas](#) the state's first alternative method of execution. **Arkansas** chose to change its form of lethal injection, legislatively adopting a new execution protocol that would allow corrections officials to **choose between a single drug and a three-drug execution**, while providing anonymity to drug suppliers. Although legal challenges to the constitutionality of this statute had been filed and were already scheduled to proceed to trial, **Governor Asa Hutchinson** issued death warrants scheduling 8 executions. The **Arkansas** Supreme Court [stopped the executions](#) to permit the challenge to proceed, and has [called for briefing](#) on the execution secrecy provisions.

Execution secrecy was a major issue in a number of death penalty states as executions went awry or states engaged in questionable practices in attempting to obtain execution drugs. **Texas** enacted legislation [making the identity of its execution drug suppliers a state secret](#) and **North Carolina** enacted a [law imposing secrecy regarding lethal drugs and allowing non-physicians to carry out executions](#).

Despite warnings from the **Food and Drug Administration** that it was illegal to do so, several states [attempted to import lethal injection drugs](#) from Harris Pharma, a company in India with a questionable history. The FDA seized execution drugs at airports in **Arizona** and **Texas**, and Federal Express refused to deliver a shipment of drugs that was headed for **Nebraska**, saying it lacked proper paperwork to be brought into the country.

The FDA also warned **Ohio** that it would be illegal for the state to import drugs the state intended to use in executions. Because of the unavailability of lethal injection drugs and problems with its state execution procedures, **Gov. John Kasich** [postponed all executions](#) in the state until at least 2017.

While prosecutors [defended the constitutionality](#) of **Georgia's** execution secrecy provisions, its legislators passed a law requiring the Board of Pardons and Paroles to [provide a public explanation of its reasons whenever it commuted a death sentence](#). Proponents of the bill, which was introduced shortly after a controversial commutation in 2014, argued it was needed to instill transparency in the clemency process. However, the law did not require the Board to provide its reasons for rejecting clemency applications, and the Board did not explain why it denied clemency in Georgia's 5 executions in 2015.

Secrecy provisions facilitated **Oklahoma's** execution of [Charles Warner](#), in violation of its state law. The state executed Warner on January 15 – and nearly executed Richard Glossip in September – with an unauthorized chemical that its anonymous supplier had substituted for the execution drug required by the state. **Gov. Mary Fallin** postponed the Glossip execution moments before it was scheduled to occur when she was informed that the

supplier had sent the state the wrong drug. After the errors were disclosed, Oklahoma's **Attorney General Scott Pruitt** asked a federal court to [stay all executions](#) in the state until an investigation into the matter could be completed, and with the consent of the parties, the federal district court indefinitely postponed the executions. **Department of Corrections Director Robert Patton** resigned and **State Penitentiary Warden Anita Trammell** retired, as a grand jury investigation got underway.

Several other courts imposed [judicial moratoria on executions](#). A **Montana** state court effectively [halted executions](#) in the state, ruling that the lethal injection drug the state intended to use in executions was not an "ultra fast-acting barbiturate," as required under Montana law. A challenge to **Mississippi's** lethal injection procedures has also put all executions in that state on hold.

In **California**, death penalty proponents and **Gov. Jerry Brown** reached a consent agreement in June that the state would propose a new execution protocol. In November, the state issued [a single-drug protocol](#) to permit corrections officials to choose between one of 4 potential execution drugs. Also in November, a federal appeals court in [Jones v. Davis](#) reversed a district court ruling that California's death penalty was unconstitutional. The reversal was on procedural grounds and the appeals court did not address the merits of the district court ruling.

In **Louisiana**, former Caddo Parish prosecutor **Marty Stroud** [apologized](#) for his role in the wrongful conviction of **Glenn Ford** and said that the state should provide compensation to Ford. The state denied the terminally ill Ford's application for compensation and he died on June 29. With the prosecutor's office in the spotlight for allegations of racially discriminatory jury selection practices and historic overuse of the death penalty, [Caddo Parish voters](#) elected a black District Attorney who was not associated with the current administration.

As of December 2015, 18 states plus the District of Columbia have abolished the death penalty. Eight other states (including Nebraska, where a legislative abolition is pending a referendum) have not executed anyone in at least 10 years and 4 more have not executed anyone in 9 years. By the standard presented by Justice Breyer in *Glossip*, 30 states have abolished the death penalty in law or practice.

NOTABLE VOICES FROM 2015

A broad range of voices of expressed concerns in 2015 about the appropriateness of the death penalty and the manner in which it is administered in the United States. Among them:

"Let us remember the Golden Rule Let us treat others with the same passion and compassion with which we want to be treated.... This conviction has led me, from the beginning of my ministry, to advocate at different levels for the global abolition of the death penalty. I am convinced that this way is the best, since every life is sacred, every human person is endowed with an inalienable dignity, and society can only benefit from the rehabilitation of those convicted of crimes."

—**Pope Francis, address to joint session of the United States Congress**

“For us, the story of Marathon Monday 2013 should not be defined by the actions or beliefs of the defendant, but by the resiliency of the human spirit and the rallying cries of this great city. We can never replace what was taken from us, but we can continue to get up every morning and fight another day. ... We believe that now is the time to turn the page, end the anguish, and look toward a better future – for us, for Boston, and for the country.

—Bill and Denise Richard, urging federal prosecutors to take death off the table in the case of the United States vs. Dzhokhar Tsarnaev

“In 1976, the Court thought that the constitutional infirmities in the death penalty could be healed; the Court in effect delegated significant responsibility to the States to develop procedures that would protect against those constitutional problems. Almost 40 years of studies, surveys, and experience strongly indicate, however, that this effort has failed. ...

“For the reasons I have set forth in this opinion, I believe it highly likely that the death penalty violates the Eighth Amendment.”

—Justice Stephen Breyer, *Glossip v. Gross*

“I have not traditionally been opposed to the death penalty in theory, but in practice it’s deeply troubling.”

—President Barack Obama

“I was arrogant, judgmental, narcissistic and very full of myself. I was not as interested in justice as I was in winning. ... I apologize to Glenn Ford for all the misery I have caused him and his family.”

—Former prosecutor Marty Stroud, apologizing for his role in sending an innocent man, Glenn Ford, to 30 years on Louisiana’s death row.

“i am all for justice and accountability, but death penalty is wrong. in 20 yrs it will go the same as opposition to gay marriage. @ABC”

—Tweet by Matthew Dowd, commentator and former consultant to George W. Bush

“We ... don’t know for sure whether Richard Glossip is innocent or guilty. That is precisely the problem. If we keep executing defendants in cases like this, where the evidence of guilt is tenuous and untrustworthy, we will keep killing innocent people.”

-Sen. Tom Coburn, U.S. Senator for Oklahoma (2005-2015) and U.S. Representative for Oklahoma’s Second Congressional District from (1995-2001)

-Barry Switzer, Head Football Coach, The University of Oklahoma (1973-1988)

-John W. Raley, Jr., U.S. Attorney, Eastern District of Oklahoma (1990-1997)

-Barry Scheck, Co-Director of the Innocence Project

-Samuel Gross, Editor, National Registry of Exonerations

CONCLUSION

Death penalty use declined dramatically in the United States in 2015, falling significantly below the already historically low levels of 2014, and its use was concentrated in a very small number of states and counties. New death sentences reached their lowest levels in the modern era of the U.S. death penalty, dropping a third below 2014's historic low. The number of executions was the fewest in 24 years, and the six states carrying out executions were the fewest to do so in 27 years. The size of death row nationwide declined for the fifteenth straight year, and fell below 3,000 for the first time since 1995.

More than 85% of the executions were in just three states – Texas, Missouri, and Georgia. Adding Florida, four states accounted for 93% of executions this year and 89% of executions the past two years. Nearly two-thirds of all new death sentences came from the same 2% of counties that are collectively responsible for more than half of the nation's death row, and one county – Riverside, California – by itself accounted for 16% of all new death sentences in the country. The isolated practices of Florida and Alabama, which permit judges to impose death sentences when juries do not unanimously agree to death, produced 25% of all death sentences nationwide this year.

Executions were put on hold or remained on hold in many states, partly because of the difficulties in obtaining lethal injection drugs or in establishing acceptable protocols for lethal injections. The governor of Pennsylvania joined governors in Washington, Oregon, and Colorado in declaring moratoria on executions in their states, and a new governor in Oregon agreed to continue the moratorium in that state.

The traditional problems with the death penalty persisted in 2015. Six more people who had been on death row were exonerated of all charges, bringing to 156 the number of death-sentenced men and women exonerated since 1973. The executions that were conducted this year reflected continuing concerns that the legal process is systemically unable to protect from execution individuals with serious intellectual disabilities and crippling mental illness.

Experience continues to demonstrate that the problems in the administration of the death penalty in the United States are not easily fixed and are even more severe in the dwindling numbers of jurisdictions in which it is most aggressively pursued. Most years do not show the same dramatic declines in every measure that we have seen in 2015, but the overall pattern and long-term trend have been away from the death penalty. Even states that executed prisoners in 2015 show signs of diminished use of the death penalty: Texas imposed only two new death sentences; Georgia and Virginia, none. Two Justices of the Supreme Court this year issued an historic call for reassessment of the constitutionality of America's death penalty. And as a majority of U.S. states have abolished the death penalty or have not carried out executions in more than nine years, questions continue to mount as to whether the death penalty serves any compelling purpose.



DEATH PENALTY INFORMATION CENTER ■ WASHINGTON, DC

202-289-2275 (Main) ■ 202-289-4022 (Media)

dpic@deathpenaltyinfo.org ■ www.deathpenaltyinfo.org

The Death Penalty Information Center is a non-profit organization serving the media and the public with information and analysis on capital punishment. The Center provides in-depth reports, conducts briefings for journalists, promotes informed discussion, and serves as a resource to those working on this issue. Robert Dunham, DPIC's Executive Director, wrote this report with assistance from DPIC's staff. Further sources for facts and quotations are available upon request. The Center is funded through the generosity of individual donors and foundations, including the MacArthur Justice Center, the Open Society Foundations, Atlantic Philanthropies, and the Proteus Action League. The views expressed in this report are those of DPIC and do not necessarily reflect the opinions of its donors.