

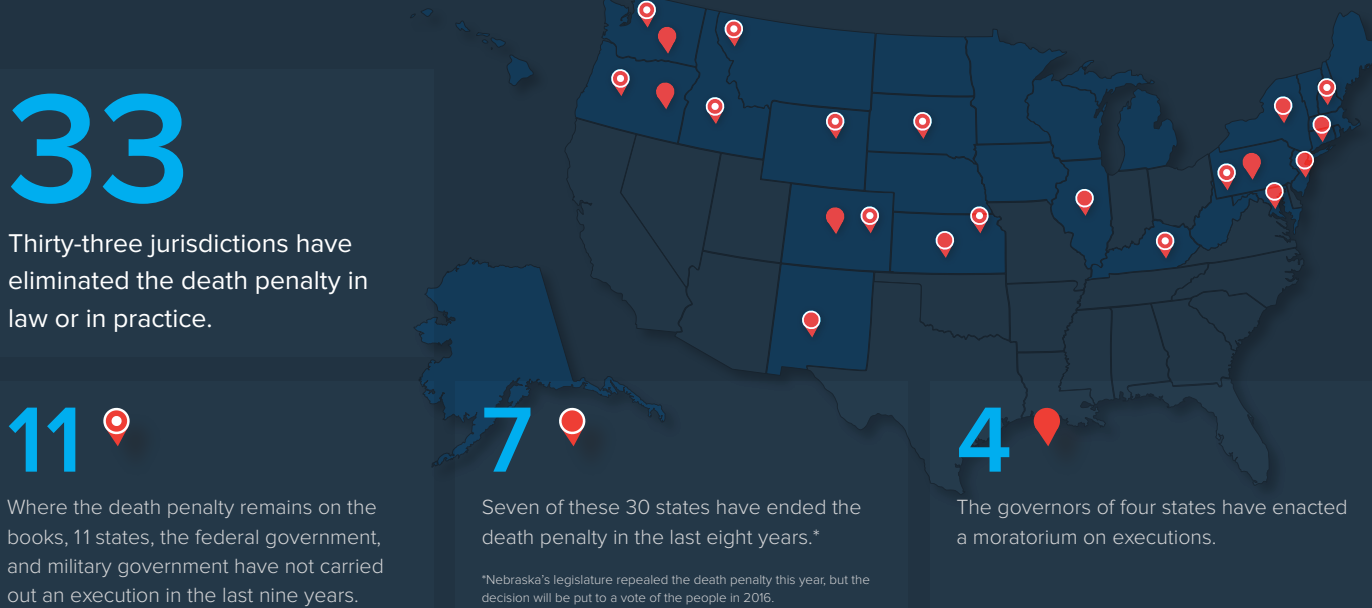
# AMERICA HAS ABANDONED THE DEATH PENALTY

OUR NATION IS DEEPLY SKEPTICAL OF CAPITAL PUNISHMENT.

There is growing consensus that the death penalty should be replaced with life without parole sentences. More and more jurisdictions are abandoning capital punishment; either formally, through legislation, or informally, by not imposing new death sentences or carrying out executions.

## STATES ARE REPLACING THE DEATH PENALTY WITH LIFE WITHOUT PAROLE.

Most states in the union have abandoned the death penalty in law or in practice. Thirty-three jurisdictions, including 30 states and the District of Columbia, the federal government and the U.S. military, have either formally eliminated the death penalty or have not carried out an execution in the last nine years.

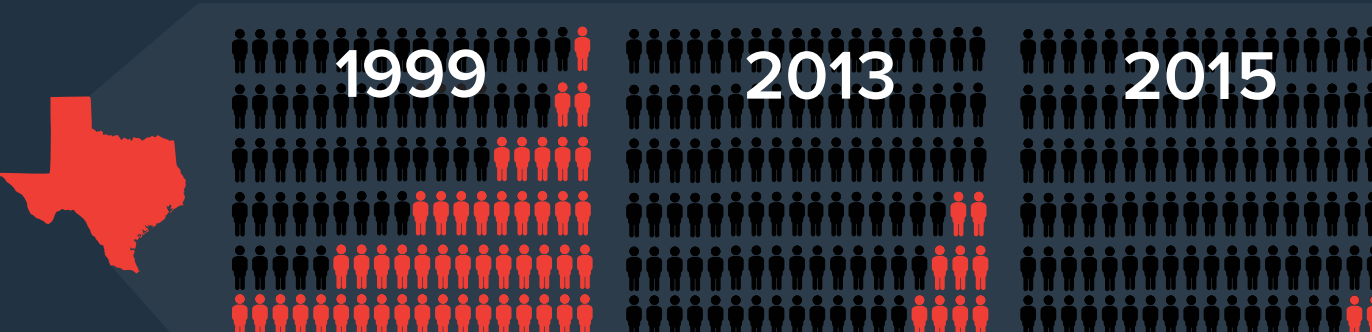


## JURISDICTIONS ARE CARRYING OUT FEWER EXECUTIONS.

Among states that continue to use capital punishment, there has recently been a substantial decline in the number of executions performed. In 2015, only six states carried out an execution.

## JURIES ARE IMPOSING FEWER DEATH SENTENCES.

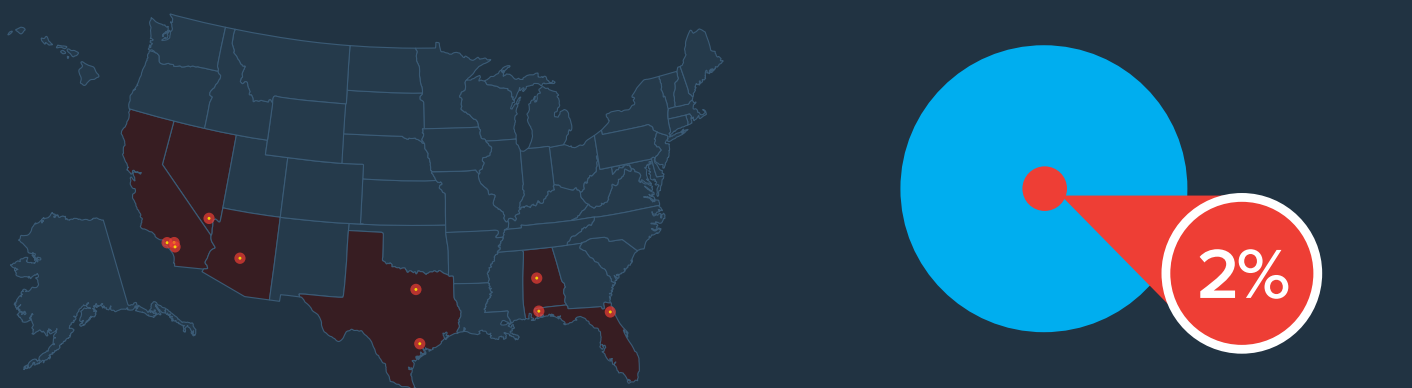
Death sentences imposed by juries have been rapidly declining in the last 15 years.



In Texas—the state most associated with capital punishment—the number of death sentences fell from 48 in 1999 to two in 2015, a **96% decrease**.

## JUST A HANDFUL OF COUNTIES ACCOUNT FOR THE VAST MAJORITY OF DEATH SENTENCES.

The death penalty is geographically isolated. On the whole, it is now unusual to find capital punishment in the United States.



Nationwide, in the six-year period from 2010 and 2015, only 10 counties out of 3,142 imposed six or more death sentences.

Just two percent of the counties in the United States are responsible for 56 percent of the nation's population on death row.

## THE DEATH PENALTY IS TOO BROKEN TO FIX.

The counties that continue to use the death penalty today don't reflect communities more eager to inflict capital punishment. They just suffer from common traits of eager, even odd, prosecutors; bad defense lawyers and racism.

### OVERZEALOUS PROSECUTORS

The death penalty in these counties is personality-driven. Only a tiny number of prosecutors produce the death sentences. Dale Cox, the district attorney of Caddo Parish, Louisiana, is responsible for one third of the death sentences in the state since 2010. He has said, **"I think we need to kill more people,"** once referred to society as a "jungle," and urged jurors to sentence a defendant to death because Jesus said to put a millstone around the necks of abusers and drown them at sea.

Juan Martinez, a prosecutor in Maricopa County, argued in one case that the defendant was more of a future danger to society because he had hepatitis and could infect other prisoners.

### INEFFECTIVE LAWYERS

These counties are defined by poorly performing lawyers who rarely give the jury a reason to save the defendant's life. Refik Eler, a lawyer in Duval County, Florida, represented eight people sentenced to death since 2008. In three separate death penalty cases, courts have found that Eler provided his client with ineffective assistance of counsel. In one case he failed to: conduct a basic factual investigation of the circumstances of the crime, secure the testimony of alibi witnesses, or investigate evidence of "organic brain damage and intellectual disability."

**"It was like he had no attorney,"** Marty McClain, one client's new lawyer, told the Florida Times-Union.

### RACISM

Death sentences in outlier counties are often the product of racial prejudice.

For decades, a confederate flag flew outside the Caddo Parish, Louisiana, courthouse where death penalty trials took place. And, despite the fact that almost half the population in Caddo Parish is Black, Caddo **prosecutors are three times as likely to remove a prospective Black juror** than a white juror.

In Harris County, Texas, a prosecutor elicited testimony from a psychologist that Duane Buck, a Black man now on death row in the state, posed a future danger to society because of his race.

The few remaining death penalty counties are characterized by wrongful executions and death sentences.

### THE SYSTEM FAILS SOME OF THE MOST VULNERABLE DEFENDANTS.

The 8th Amendment prohibits the death penalty for juveniles or intellectually disabled people. The broader point, though, is that **executing people with serious functional impairments crosses a moral line**.

In 2013, Florida executed John Ferguson, a paranoid schizophrenic who became increasingly hostile and delusional after suffering a gunshot wound to the head. Ferguson believed he was the "Prince of God" who could not be killed and would rise up after his execution and fight alongside Jesus to save the United States from a communist plot.

### WE HAVE SENTENCED TO DIE—AND LIKELY EXECUTED—INNOCENT PEOPLE.

A 2014 study offered a conservative "estimate that **if all death-sentenced defendants remained under sentence of death indefinitely at least 4.1% would be exonerated.**"

Paul House claimed at his trial that scratches on his arm came from "tearing down a building, and from a cat," and not as the result of a struggle with the victim. Chief Justice John Roberts mockingly commented on House's version of events: "Scratches from a cat, indeed." In 2009, House was exonerated by DNA evidence after 22 years on Tennessee's death row.

*"I believe it highly likely that the death penalty violates the Eighth Amendment."*

—JUSTICE STEPHEN BREYER