

The Death Penalty & Racial Bias

HOW DOES IT IMPACT THE CAPITAL PUNISHMENT SYSTEM AS A WHOLE, SPECIFICALLY PERTAINING TO THE STATE OF TEXAS, AND HOW CAN IT BE CHANGED?

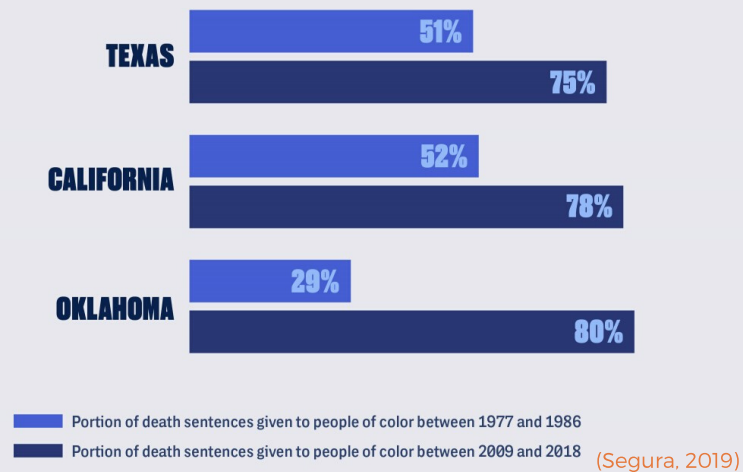
Policy Brief by Sara McCown

THE PROBLEM

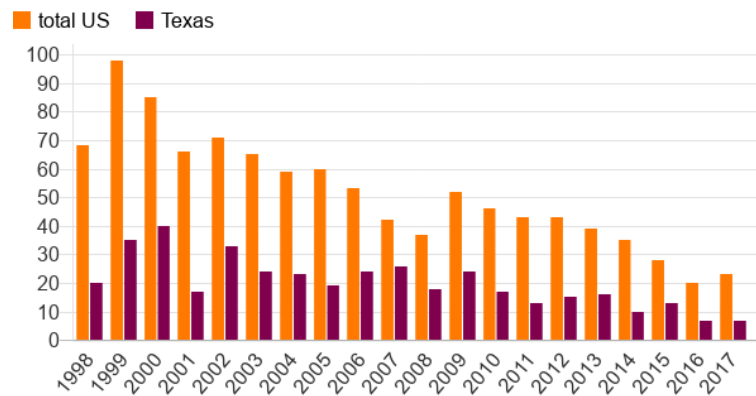
In the 1972 *Furman v. Georgia* Supreme Court case, the court decided to abolish the death penalty. Although it was reversed in the 1976 *Gregg v. Georgia* Supreme Court case, the results led to studies regarding the death penalty and capital punishment across the country (Segura, 2019). After *Furman v. Georgia*, studies showed that **racial bias was evident** in death penalty cases, particularly regarding the race of the victim (Eckland-Olson, 1988). The Inc. Fund lawyers involved in the case argued that states enforced capital punishment to **“impose it on marginal groups,”** such as minorities and those with a lower socioeconomic status (Caplan, 2016). The state of **Texas executes the highest number** of people out of all fifty states. Out of all executions recorded in the history of the United States, one-third have been by the state of Texas (Goldberg et al., 2000). This being said, the presence of racial bias holds more weight in this state than others due to this large disparity in sheer numbers of cases of execution.

INCREASING RACIAL DISPARITIES

60 percent of those sentenced to die in the U.S. over the past 10 years were people of color, up from 46 percent in the decade after *Gregg*.



Executions in the US and Texas



Source: Death Penalty Information Center

(Jeffery, 2018)

BBC

142

The number of death row inmates in Texas for the past 10 years (Carver, 2009).

\$2.3 million

Average cost per death penalty case in Texas. The amount spent by Texans on the death penalty over the past 10 years is approximately \$326.6 million (Nevada Legislature, 1992).

\$47.50

The average price to house an inmate in a Texas prison per day. It would cost around \$693,500 to house an inmate for life imprisonment (Carver, 2009).

\$228 million

The amount of taxpayer money that could have been saved by abolishing the death penalty in Texas over the past 10 years (Carver, 2009).

WHY DOES THIS MATTER?

The presence of racial discrimination during the trial and rulings process has led to an unacceptable amount of disparities between cases when race is a factor. This is particularly problematic regarding capital punishment cases, as they are literally **a matter of life or death**. In Texas, oftentimes the right to counsel, as outlined in the Bill of Rights, is neglected to those who arguably need it the most. Many courts try to rush the process in order to get through cases as quickly as possible. However, this means that many **details of a case are overlooked** and certain prejudices and biases are more likely to rise to the surface and influence the decisions of the court. Due to this, full habeas corpus is necessary for the fair judgement of cases. However, as a result of the many restrictions placed on habeas corpus by Congress and the Supreme Court, it seldom protects those who need it most (Bright, 2000).

HOW MUCH DOES RACIAL DISCRIMINATION IMPACT COURT DECISIONS?

A common misconception is that most racial discrimination in capital punishment cases involve the race of the defendant, usually being a minority. However, it is more common to see biases **towards white victims**, which serves as an avenue to there being racial discrimination towards the defendant (Death Penalty Information Center, 2020). Studies have shown that a defendant is **four to five times more likely to receive the death penalty** if the victim in the case was white rather than if the victim in the case was black (Tabak, 1999).

THE SOLUTION

While making the appeals process more accessible is a potential solution to this issue, the most effective solution would be to **abolish the death penalty**. Inc. Fund lawyers in the Furman v. Georgia Supreme Court case claimed that “the **best hope** for many death-sentenced black inmates might rest on broader reforms - perhaps even abolition - of the capital system” (Caplan, 2016).

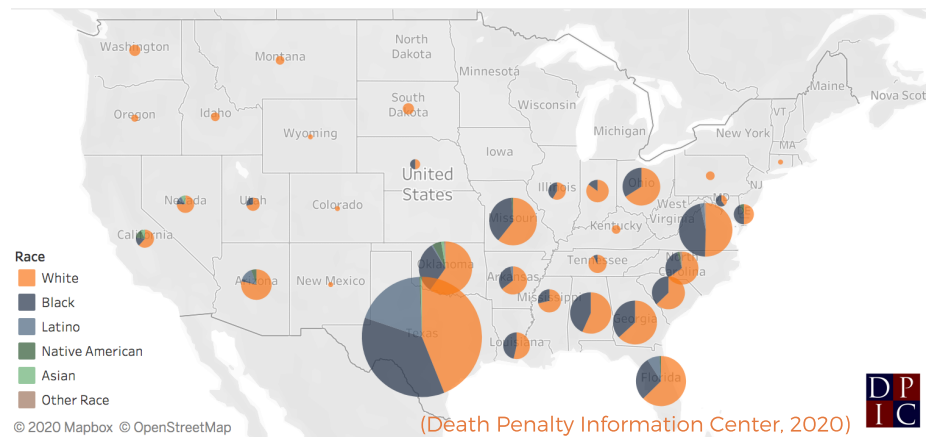
BENEFITS

While racial discrimination may still be present in decision making, there would be time to correct it. There would be **adequate time** to appeal a case and ensure no innocent person, or individual deserving of a lesser sentence, is put to death. Abolishing the death penalty would also be **more cost effective**, as is explained earlier. Therefore, **true justice** would be more easily attainable, and Texans would be saving money.

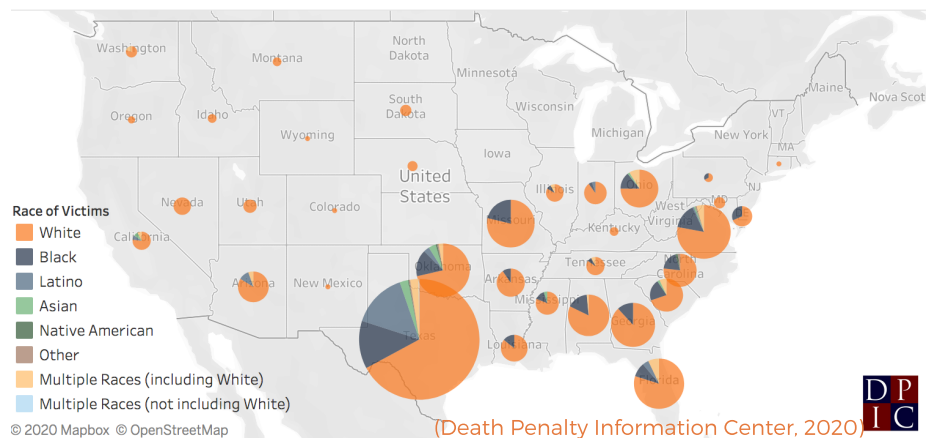
COSTS

Due to the political climate of Texas, there could be **potential push-back**. Many support the death penalty in Texas, however, if the costs were broken down to each individual, there could be reasoning. There is substantial evidence to suggest that the presence of the death penalty is simply economically inefficient. The money saved by abolishing the death penalty could be used towards other efforts in the state’s budget, which would be attractive to many.

U.S. Executions by Race of Defendant



U.S. Executions by Race of Victim



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