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Demonstrators are seen near the Federal Correctional Complex in Terre Haute, Ind., showing

Demonstrators are seen near the Federal Correctional Complex in Terre Haute, Ind., showing their opposition to the death penalty July 13, 2020. (CNS photo/Bryan Woolston, Reuters)



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Courts in wide swaths of the United States no longer impose death sentences or carry out executions, according to a report issued Dec. 16 by the Death Penalty Information Center.

"The death penalty is eroding everywhere in the United States, even in places that are still seeking to carry out executions," said Robert Dunham, the center's executive director, about "The Death Penalty in 2021: Year-End Report."

"At the state level, the states are one at a time abolishing the death penalty. So this year Virginia abolished it. It was the first state in the South to do so. It was the state with the most executions to have ever done so, and it shows that even in previous strongholds of capital punishment, support is fading," Dunham said.

"We can look at it regionally as well. There is a death penalty-free zone from the Canadian border at Maine to the northern border of the Carolinas" along the Atlantic coast, he added.

"There is an execution-free zone that spans the length of America's Pacific Coast" and includes Hawaii, he added. "And when you go across the U.S.-Canadian border, there is no state (along the border) that imposed the death penalty this year."

Dunham said, "We see the death penalty disappearing altogether in some regions, receding in others and it remains concentrated in a few outlier jurisdictions, mainly in the Deep South, and in those jurisdictions, the death penalty is part of a legal culture that is inseparable from the legacy of slavery, lynching and Jim Crow."

There were many key events this year across the United States, according to the report. Among them were:

- The Biden administration halted all federal executions and announced a policy review on the death penalty.
- 2021 marked the seventh straight year with fewer than 50 new death sentences and fewer than 30 executions.
- Just five counties now account for more than 20% of all U.S. executions.
- The release earlier this year of a separate study finding that one of every seven executions involved a defendant who raised claims that the Supreme Court has said would require reversing their convictions or death sentences.

Exonerations continued to make news in 2021. There were two such cases from Mississippi, both of which involved false forensic testimony. A third case in Texas resulted in the Texas Court of Criminal Appeals vacating the conviction of a death-row prisoner because the prosecutor who tried him was simultaneously on the payroll of the judge who presided over the trial and decided the defendant's trial court appeals.

An appellate court in this third case cited "judicial and prosecutorial misconduct," and the prosecutor is no longer permitted to practice law in Texas.

"Misconduct is the leading cause of wrongful convictions that put people on death row," Dunham said. "We like to think that the judicial system is neutral and fair, and that when innocent people go to jail, it's a rare mistake.

"But the number show that most wrongful capital convictions are not mistakes. The leading factors are official misconduct and false testimony."

"If it were the product of a mistake, it would completely undermine confidence in our ability to fairly administer the criminal laws," he added, citing 186 exonerations amid 1,540 executions, or 8.3 executions per exoneration.

"When you think of the death penalty in terms of any other public policy, that level of fatal error would not be tolerated," Dunham told Catholic News Service. "If that were one plane crash for every 8.3 times it goes where it was supposed to go, we would be revamping or dismantling the aviation system."

The relatively few prosecutors who still seek the death penalty are from "the culture of the 1990s," when tough-on-crime stances such as three-strikes laws and the revocation of parole and "good time" for prisoners took hold among state and federal lawmakers, Dunham said.

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"There are pockets in which public officials still want to aggressively carry it out. And their conduct in doing so has become increasingly extreme. It is as though they haven't learned that the public is no longer responding to chest-beating," he added.

He pointed to Arizona, which he said is so "frustrated at being unable to carry out executions, (it) now carries out executions with hydrogen cyanide — the same gas the Nazis used to kill a million people in the concentration camps."

When the state realized its drugs were expiring sooner than expected, leaving Arizona unable to execute prisoners, it asked the courts to "cut the judicial review time in half. This is conduct that exhibits a complete disregard for the rule of law and due process," Dunham said. "And the Arizona Supreme Court had had enough and said no."

South Carolina, Dunham noted, didn't have any drugs with which to carry out executions "and used that as a tool to persuade the Legislature to make the electric chair the default method of execution and adopt a firing squad as a backup method."

Prosecutors then sought to execute two prisoners with the electric chair "without giving them the option the law required of selecting the firing squad and without even bothering to come up with a protocol for carrying out firing-squad executions," he said.

"If you have this degree of hubris and incompetence — even the states that execute more people than any other jurisdiction in the Western Hemisphere — that undermines public confidence that states can be trusted with the death penalty," Dunham added.

"Though not at all representative of the nation's actual, long-term trajectory away from capital punishment, these scattered efforts to escalate executions require our continued vigilance," said Krisanne Vaillancourt Murphy, executive director of the Catholic Mobilizing Network, in a Dec. 16 statement responding to the Death Penalty Information Center report.

"The recent advances toward death penalty abolition far outweigh the backslides into executions we are seeing in outlier states and jurisdictions," she added. "Capital punishment is dying in the U.S., and Catholics have renewed encouragement for the work that lies ahead."