News

A map shows the states with no death penalty or with no execution in five years; there are or

In its annual year-end report released Dec. 16, 2022, the Death Penalty Information Center says the use of capital punishment continued its long-term decline in the U.S. in 2022. (CNS screen grab/Death Penalty Information Center)



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The commutation Dec. 13 of all condemned prisoners on Oregon's death row was one key in the Death Penalty Information Center's 2022 report on capital punishment in the United States.

Counterbalancing Oregon's move was Oklahoma's effort to execute 25 death-row inmates in a 29-month span.

Even though 2022 was another year with fewer than 30 executions, more than half of those were in just two states, Oklahoma and Texas.

By contrast, according to Robert Dunham, executive director of the Death Penalty Information Center, there are 37 states that either do not issue death sentences or have not executed a prisoner in at least 10 years.

"That's three-quarters of the country," he told Catholic News Service in a Dec. 15 phone interview.

Fewer than 50 new death sentences were issued, but getting from a death sentence to an execution has proven more challenging for governments trying to impose the ultimate sentence, as botched executions and protocol errors led to halts in Alabama and Tennessee, while Kentucky became the second state to pass an exemption for serious mental illness.

Further, two more people were exonerated outright last year, bringing the total of exonerees since 1973 to 190. Concerns about innocence attracted unlikely spokespeople to the abolitionist cause, including Republican state legislators and self-described supporters of capital punishment, according to the report.

The Death Penalty Information Center's prosecutorial accountability project has identified more than 550 trials in which capital convictions or death sentences were overturned or wrongfully convicted death-row prisoners were exonerated as a result of prosecutorial misconduct.

Half of those executed had spent 20 years or more on death row, according to the report, in violation of international human rights norms. Executions took place despite objections from county prosecutors and the relatives of victims. And 83% of prisoners executed in 2022 had evidence of a significant impairment.

"At least 13 of the people executed in 2022 had one or more of the following impairments: serious mental illness (eight); brain injury, developmental brain damage, or an IQ in the intellectually disabled range (five); chronic serious childhood trauma, neglect, and/or abuse (12)," the report explained.

"Three prisoners were executed for crimes committed in their teens," it added. "At least four of the people executed this year were military veterans."

The Supreme Court continued to withdraw the federal courts from regulation of death penalty cases, limiting access to federal habeas corpus review for death-row prisoners, vacating lower court rulings that had halted executions, and declining to review death-penalty cases that presented serious constitutional issues.

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The report also took note of an investigation conducted by National Public Radio of guards working in their respective prison's death chambers. "Most of the workers NPR interviewed reported suffering serious mental and physical repercussions," the report said. "But only one person said they received any psychological support from the government to help them cope."

Of all the people whose work required them to witness executions in 13 states, none said they still support the death penalty, including those who were in favor of capital punishment when they started their jobs.

Public support for the death penalty is near its all-time low in the past 50 years. In a Gallup poll, support ticked up 1%, and opposition went down 1%, despite respondents' concerns over a rise in violent crime.

"When we look at ads that were stoking fear of crime, they didn't mention the death penalty. And the reason is that it's not a partisan issue the way it was in the 1990s," Dunham said, adding that 25% of Republicans oppose capital punishment. "If you want to demonize somebody," he said, "you can't demonize one-quarter of your supporters."

Dunham said outgoing Oregon Gov. Kate Brown's mass commutation in Oregon was a big deal. The 17 whose sentences were commuted to life in prison without parole make up the second largest group in the past 50 years to receive a blanket pardon, next to Illinois Gov. George Ryan's commutation of 160 death sentences in 2003.

"It is an irreversible punishment that does not allow for correction; is wasteful of taxpayer dollars; does not make communities safer; and cannot be and never has been administered fairly and equitably," Brown said announcing the commutations.

"Carrying out the death penalty for a crime for which a person was no longer liable for execution -- that would have gone against the state constitution. That would have been (litigated) piecemeal one at a time," Dunham said. "We see governors, we see presidents exercising their conscience before they leave office. And for Gov. Brown, this was a matter of conscience."

The Death Penalty Information Center's report said capital punishment continues to be applied discriminatorily. "Eight of the 18 prisoners executed were people of color: five were Black, one was Asian, one Native American and one Latino," the report said.

One relatively unexamined result of November's midterm elections was that prosecutors who support criminal legal reform were elected, and in some cases they succeeded death penalty advocates in the process.

In Shelby County, Tennessee, which includes Memphis, Attorney General Amy Weirich, a Republican, who had been investigated for prosecutorial misconduct, lost her reelection bid to Democrat Steve Mulroy, a law professor at the University of Memphis who had formerly been a civil rights prosecutor in the federal Department of Justice.

In Oklahoma County, Oklahoma, the incumbent prosecutor, a death penalty advocate, retired.

"Oklahoma County carried out more executions than any state except the state of Texas," Dunham said. The county, which includes Oklahoma City, "has had more wrongful death penalty convictions overturned than three other counties in the United States," he added. "So who do they elect? The former director of the Innocence Project."