



December 9, 2024

President Joseph Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Biden,

On behalf of the 134 undersigned civil liberties, civil and human rights, faith-based, academic, and social justice organizations, we write to urge you to use your constitutionally provided power to commute the sentences of all individuals on federal death row. We commend your administration's actions to repudiate capital punishment, including imposing a moratorium on executions for those sentenced to death, and for publicly calling for an end to the use of the death penalty during your 2020 campaign.¹ In the face of a second Trump administration, more is necessary.

Forty people are currently on federal death row. Over half of those individuals are non-white, including 38% who are Black, despite Black adults representing 11.7% of the population.² The federal death penalty is not immune from the hallmark irreparable failures of the death penalty at the state level.³ Indeed, the nation bore witness to thirteen executions in the final seven months of the first Trump administration, all of which were marred with devastating issues endemic to capital punishment like racial bias, ineffective legal assistance, unreliable forensic evidence, and defendants executed who had substantial intellectual disabilities and severe mental health conditions.⁴

¹ Dakin Andone, *Biden campaigned on abolishing the death penalty. But 2 years in advocates see an inconsistent message*, CNN, (Jan. 22, 2023) <https://www.cnn.com/2023/01/22/politics/joe-biden-federal-death-penalty-abolition/index.html>.

² A person must be at least 18 years old to be sentenced to death. Angelica Menchaca, Bev Pratt, Eric Jensen & Nicholas Jones, *Examining the Racial and Ethnic Diversity of Adults and Children*, U.S. Census Bureau (May 22, 2023), <https://www.census.gov/newsroom/blogs/random-samplings/2023/05/racial-ethnic-diversity-adults-children.html>.

³ As of July 1, 2024, 58% of people on death row throughout the country are non-white and 41% of those individuals are Black. NAACP Legal Defense and Educational Fund, Inc., *Death Row USA*, <https://www.naacpldf.org/our-thinking/death-row-usa/> (last visited Nov. 27, 2024).

⁴ The Trump Administration pursued these executions despite widespread, bipartisan opposition and COVID-related lockdowns. Those executed included the first woman executed by the federal government in nearly 70 years; the youngest person based on the age when the crime occurred (18 at the time of his arrest); and the only Native American on federal death row. Erik Ortiz, *Trump Wants to Expand Federal Death Penalty, Setting Up Legal Challenges if He Secures a Second Term*, NBC News (Nov. 9, 2024), <https://www.nbcnews.com/politics/2024-election/trump-wants-expand-federal-death-penalty-setting-legal-challenges-seco-rcna178979>.

From the first day of your presidency, you issued a clear commitment to address racial equity for underserved communities.⁵ As your time in office comes to a close, there is an unprecedented need for you to cement your commitment to remedying injustices by exercising executive clemency and commuting the death sentences of those on federal death row. President Trump executed more people than the previous ten administrations *combined*.⁶ Of those he executed, over half were people of color: six Black men and one Native American. The only irreversible action you can take to prevent President-elect Trump from renewing his execution spree, as he has vowed to do, is commuting the death sentences of those on federal death row now. Your ability to change the course of the death penalty in the United States will be a defining, legacy-building moment in American history. You have the power to lead with redemption and time is of the essence.

Historically, in the United States the death penalty has been rooted in slavery, lynchings, and white vigilantism.⁷ In 1944, South Carolina executed a 14-year old Black child, George Stinney for the rape and murder of two white young girls who never returned home on a day he had seen them.⁸ Mr. Stinney's attorney had no experience in capital cases and did not call any witnesses.⁹ He was convicted by an all-white jury.¹⁰ In 2014, 80 years later, a judge vacated Mr. Stinney's capital conviction as he was deprived of due process during his trial.¹¹ While George Stinney is the youngest person known to be executed by a government in U.S. history, this heart-wrenching case bears emblematic commonalities of how the death penalty has been used as a tool of racial oppression against Black men and Black communities.

Today, people of color, particularly Black men, continue to disproportionately face the death penalty. Studies reveal that racial discrimination permeates every stage of the criminal justice process— from policing and charging decisions to jury selection, trial proceedings, sentencing and ultimately who is executed.¹² A 2018 study found that the requirement that prospective jurors be willing to vote for a death sentence, likely disproportionately excludes Black people from serving on juries in capital cases, depriving Black defendants of a jury of their peers.¹³ Study after study has

⁵ Exec. Order No. 13,985, 87 Fed. Reg. 7009 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

⁶ Isaac Arnsdorf, *Inside Trump and Barr's Last-Minute Killing Spree*, ProPublica, (Dec. 23, 2020) <https://www.propublica.org/article/inside-trump-and-barrs-last-minute-killing-spree>.

⁷ Ngozi Ndule, *Enduring Injustice: The Persistence of Racial Discrimination in the U.S. Death Penalty*, Death Penalty Information Center, (Sept. 2020), <https://dpic-cdn.org/production/documents/pdf/Enduring-Injustice-Race-and-the-Death-Penalty-2020.pdf?dm=1683576585>.

⁸ Hayley Bedard, *Remembering the Execution of 14-year-old Goerge Stinney, 80 years later*, Death Penalty Information Center, (June 14, 2024) <https://deathpenaltyinfo.org/remembering-the-execution-of-14-year-old-george-stinney-80-years-later>.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Jeffrey A. Fagan, Garth Davies & Ray Paternoster, *Getting to Death: Race and the Paths of Capital Cases after Furman*, 107 CORNELL L. REV. 1565 (2022) https://scholarship.law.columbia.edu/faculty_scholarship/3891.

¹³ Death Penalty Information Center, *Studies: Death-Penalty Jury Selection "Whitewashes" Juries and is Biased Towards Death* (May 1, 2018), <https://deathpenaltyinfo.org/news/studies-death-penalty-jury-selection-whitewashes-juries-and-is-biased-towards-death>.

identified that if a victim is white there is an increased likelihood a defendant will be sentenced to death. A 2022 study that reviewed murder cases from Georgia observed that when a Black defendant is accused of killing white victims, cases are 25% more likely to receive a death sentence than all other race combinations.¹⁴ A 1990 review by the U.S. Government Accountability Office found that Black defendants face harsher penalties than their similarly situated non-Black counterparts, and defendants whose victims are white are treated more punitively than those whose victims are Black.¹⁵ More than a third of the people who have been executed since 1976 are Black.¹⁶ The United Nations Human Rights Committee has repeatedly expressed concerns about the use of the death penalty in the United States and the racial justice implications, recently stating “the Committee remains gravely concerned at the continuing use of the death penalty and at racial disparities in its imposition.”¹⁷

There are Black men on federal death row today who were sentenced and convicted by all-white juries, despite the offense taking place in areas with significant populations of people of color.¹⁸ Since 1989, 60% of all people federally sentenced to death have been people of color.¹⁹ In short, so long as the United States maintains the death penalty, this country will never achieve true racial equity. The continued use of the death penalty in the United States represents an indelible stain on the moral fabric of our country, and a barrier to achieving racial justice. While the majority of countries have abolished capital punishment, those that retain it wield it disproportionately against racially, religiously, and politically marginalized groups.²⁰ The U.S. is no exception.

Further, the death penalty does not advance public safety. Arguments that the death penalty is a necessary deterrent ring false. In 2020, states with the death penalty had higher murder rates than those without – states with the death penalty had an average murder rate of 7.5 per 100,000, whereas states without the death penalty had murder rates of 5.3 per 100,000.²¹ Law enforcement

¹⁴ Jeffrey A. Fagan, Garth Davies & Ray Paternoster, *Getting to Death: Race and the Paths of Capital Cases after Furman*, 107 CORNELL L. REV. 1565 (2022) https://scholarship.law.columbia.edu/faculty_scholarship/3891.

¹⁵ Id.

¹⁶ Death Penalty Information Center, *Executions by Race and Race of Victim*, <https://deathpenaltyinfo.org/executions/executions-overview/executions-by-race-and-race-of-victim> (last visited Nov. 27, 2024).

¹⁷ U.N. Human Rights Comm., *Concluding Observations on the Fifth Periodic Report of the United States of America*, U.N. Doc. CCPR/C/USA/CO/5 (Apr. 18, 2014), <https://www.ohchr.org/en/documents/concluding-observations/ccprcusaco5-concluding-observations-fifth-periodic-report-united>.

¹⁸ John Nidiry & Ruth Friedman, *Long Overdue: The Need for an Examination of the Specter of Racial Bias in the Federal Death Penalty System*, 67 Univ. of Maine L. (2024). Available at: <https://digitalcommons.maine.gov/cgi/viewcontent.cgi?article=1163&context=faculty-publications>.

¹⁹ The Death Penalty Information Center, *Fool’s Gold: How the Federal Death Penalty Has Perpetrated Racially Discriminatory Practices Throughout History*, (Nov. 14, 2024) <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/dpic-special-reports/fools-gold-federal-racial-justice-report>.

²⁰ Amnesty International, *Death Sentences and Executions in 2023*, (May 29, 2024), <https://www.amnesty.org/en/documents/act50/7952/2024/en/#:~:text=Amnesty%20International's%20monitoring%20of%20the,31%25%20from%20883%20in%202022>.

²¹ Death Penalty Information Center, *Murder Rate of Death Penalty States Compared to Non-Death Penalty States, 2020*, <https://deathpenaltyinfo.org/facts-and-research/murder-rates/murder-rate-of-death-penalty-states-compared-to-non-death-penalty-states> (last visited Nov. 27, 2024).

officials agree. In a national opinion poll of police chiefs across the United States, the use of the death penalty ranked last as an effective way to keep communities safe.²²

We have seen time and time again cases where state and federal governments have made grave – and even fatal – mistakes with wrongful convictions. Since 1973, at least 200 people have been exonerated from death rows across the United States.²³ The vast majority of those who were wrongfully convicted to die, often spending decades on death row, are Black and Brown people.²⁴ This disturbing realization about the fallibility of the capital punishment system and who it targets begs further questions about those who were innocent and executed and lost to history through grave injustices that we cannot reverse.²⁵

President Biden, by commuting the sentences of those on death row, you have the opportunity to bring the United States closer in line with the nearly two thirds of countries that have fully abolished the use of capital punishment. Now is the moment for us all to reflect on what a higher sense of morality and duty calls upon us to do. We urge you to commute the sentences of those on death row prior to the end of your term.

Should you have any questions please feel free to contact Tara Stutsman of the American Civil Liberties Union at tstustman@aclu.org, Aiden Cotter of the Southern Poverty Law Center at aiden.cotter@splcenter.org, Justin Mazzola of Amnesty International USA at jmazzola@aiusa.org, or Kristina Roth of the NAACP Legal Defense and Educational Fund at kroth@naacpldf.org.

Sincerely,

American Civil Liberties Union
Amnesty International USA
NAACP Legal Defense and Educational Fund, Inc. (LDF)
Southern Poverty Law Center
8th Amendment Project
A Bella LaFemme Society
ACT 4 SA Action Fund
Alabama Arise
Alaskans Against a Death Penalty

²² American Civil Liberties Union, *The Case Against the Death Penalty*, (Dec. 11, 2012) <https://www.aclu.org/documents/case-against-death-penalty>.

²³ Death Penalty Information Center, *Innocence*, <https://deathpenaltyinfo.org/policy-issues/innocence> (last visited Oct. 30, 2024).

²⁴ Innocence Project, *Innocence and the Death Penalty*, <https://innocenceproject.org/innocence-and-the-death-penalty/#:~:text=The%20vast%20majority%20of%20people,administration%20of%20the%20death%20penalty> (last visited Oct. 30, 2024).

²⁵ Death Penalty Information Center, *Executed But Possibly Innocent*, <https://deathpenaltyinfo.org/policy-issues/innocence/executed-but-possibly-innocent> (last visited Nov. 11, 2024).

American Constitution Society
American Friends Service Committee
American Humanist Association
Atlanta Community Support Project
Autistic Self Advocacy Network
Barred Business
Bend the Arc: Jewish Action
Brennan Center for Justice
California People of Faith Working Against the Death Penalty
California Public Defenders Association
Californians United for a Responsible Budget (CURB)
Center for American Progress
Center for Constitutional Rights
Center for Law, Equity and Race at Northeastern
Center on Law, Race & Policy at Duke Law
Color of Change
Common Cause
Communities United for Restorative Youth Justice
Congregations of St Joseph
Conservatives Concerned
Courage California
Criminal Justice Reform Clinic at Lewis & Clark Law School
Death Penalty Alternatives for Arizona
Death Penalty Focus
Disability Rights Education and Defense Fund
Dream.org
Drug Policy Alliance
EJUSA Evangelical Network
Ella Baker Center for Human Rights
Episcopal Diocese of Atlanta
Episcopal Peace Fellowship
Equal Justice USA
Equity in Education
Fair and Just Prosecution
Fair Chance Project ~ Families United to End LWOP (FUEL)
Federal Public and Community Defenders
Felony Murder Elimination Project
Florida Rising
Floridians for Alternatives to the Death Penalty
Forward Justice
Fred T. Korematsu Center for Law and Equality, UC Irvine School of Law
Friends Committee on Legislation of California
Full Picture Justice

Fund for Nonviolence
FWD.us
Georgia Coalition for the Peoples Agenda
Gibson-Banks Center for Race and the Law, University of Maryland Carey School of Law
Human Rights Watch
Ignite Peace
Jewish Council for Public Affairs
JLUSA
Journey of Hope...From Violence to Healing
Justice Roundtable
Justice Committee of the Sisters of St. Joseph of Carondelet
Juvenile Law Center
Kansas Coalition Against the Death Penalty
Kentucky Coalition to Abolish the Death Penalty
Lambda Legal
LatinoJustice PRLDEF
Lawyers' Committee for Civil Rights Under Law
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
The Leadership Conference on Civil and Human Rights
Loyola Law School Project for the Innocent
MacArthur Justice Center
MomsRising.org
Motherhood Beyond Bars
Movement for Black Lives
Multifaith Initiative to End Mass Incarceration
Muslim Advocates
National Association of Criminal Defense Lawyers
National Association of Social Workers
National Bar Association
National Black Justice Collective
National Council of Churches
National Lawyers Guild
National Religious Campaign Against Torture
National Urban League
NETWORK Lobby for Catholic Social Justice
Nevada Coalition Against the Death Penalty
New Disabled South
Next Generation Action Network
NYU Center on Race, Inequality, and the Law
Ohio Council of Churches
Ohio Families Unite for Political Action and Change (OFUPAC)
Ohioans to Stop Executions
Oklahoma Coalition to Abolish the Death Penalty

Oklahoma Faith Network
Onyx Impact
Operation Restoration
Oregon Justice Resource Center
Oregonians for Alternatives to the Death Penalty
Pennsylvanians for Alternatives to the Death Penalty
Presenting Resources Effectively Applying Christlike Humbleness (PREACH)
Prison Policy Initiative
Promise of Justice Initiative
Prosecutors Alliance Action
Restoring Hope California
Safe & Just Michigan
Sisters of St. Joseph of Baden, PA
Sisters of St. Joseph of Boston, MA
Sisters of St. Joseph of Northwestern PA
Sisters of St. Joseph Social Justice Committee
South Carolinians for Alternatives to the Death Penalty
Southern Center for Human Rights
State Voices Florida
Survived & Punished
Tennesseans for Alternatives to the Death Penalty (TADP)
Texas After Violence Project
Texas Coalition to Abolish the Death Penalty (TCADP)
Texas Defender Service
Texas Jail Project
The Advocates for Human Rights
The Faith Leaders of Color Coalition (FLOCC)
The National Council for Incarcerated and Formerly Incarcerated Women and Girls
The Sentencing Project
Together We Stand
Union for Reform Judaism
USF School of Law Racial Justice Clinic
U.S. Federation of the Sisters of St. Joseph
The Unitarian Universalist Service Committee (UUSC)
Vera Institute of Justice
Wilson Center for Science and Justice at Duke Law
Witness To Innocence
Worth Rises
Young Women's Freedom Center