



A Moving Target: Fairness & the Death Penalty

PROSECUTORIAL POWER & ARBITRARY JUSTICE

Prosecutors have **sole discretion** to seek the death penalty, often leading to disparities in who faces execution based on **geography, political pressure, funding, or the prosecutor's views** rather than the **severity** of the crime.

This broad authority, though a hallmark of the legal system, leaves significant room for **bias** and **misconduct**.

2.4%

Counties that account for half of all death sentences

5

Counties that account for more than 1/5 of all executions

550+

Capital convictions and/or death sentences overturned involving prosecutorial misconduct

A BIASED SYSTEM MARKED BY DISPARITY



Official misconduct contributed to 79% of wrongful convictions of Black death row inmates, compared to 58% for their white counterparts.



Roughly 90% of capital defendants can't afford their own council and rely on public or court-appointed defenders.



Three-quarters of death sentences involve white victims, even though about half of homicide victims in the U.S. are Black.



Black people currently comprise of 40% of the death row population despite only being 12% of the U.S. population.

DID YOU KNOW? Many of the nation's most high-profile murderers & serial killers don't get the death penalty because they can afford better lawyers who negotiate deals.



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CASE STUDIES

- ✦ A bipartisan review of Oklahoma's death penalty system proved racial bias plays a significant role in the state's death sentences. Black defendants are 2 to 3 times more likely to receive a death sentence based on race alone, along with inadequate defense counsel.
- ✦ **JULIUS JONES:** At least one juror harbored racial prejudice that influenced his vote to convict and sentence Jones, a Black man, to death. One juror reported telling the judge about another juror who referred to Jones with a racial slur. Jones' sentence was commuted to life by Republican Governor Kevin Stitt.
- ✦ **JAMES BROADNAX:** Texas prosecutors deliberately removed potential Black jurors from Broadnax's jury pool and exploited racial stereotypes by using rap lyrics authored by Broadnax, a Black man, as proof of criminal "mentality." Broadnax was executed in May 2026.
- ✦ **TREMANE WOOD:** Wood, a Black man, was tried in Oklahoma by a mostly white jury with only one Black juror, who testified that she was bullied and pressured into voting for a death sentence even though she believed Wood should live. Wood's sentence was commuted to life by Republican Governor Kevin Stitt.
- ✦ **GARY NELSON:** Nelson's lawyer had never tried a capital case. He was paid less than \$20 per hour and did not request any funds for an investigator. His closing argument was 255 words long – less than half the length of this fact sheet. Nelson, a Black man, was eventually exonerated and released.



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