



# Racial Inequity and the Death Penalty

## Past and present

**Race plays a decisive role in who lives and who dies in the United States. But these racial inequities are nothing new.** From slavery to Jim Crow to the present day, the death penalty has been a tool of injustice and discrimination.

### Death Penalty and Slavery

- Discrimination in capital punishment was explicitly written in many states' laws during slavery. Black people – whether slaves or not – faced the death penalty for crimes that were not even be eligible for death if committed by a white person.

**CASE IN POINT**

**In Virginia**, before the Civil War, there were over 60 capital crimes for slaves but only one for white people. According to one local account from Virginia, the execution of a white person was so rare as to be a "strange spectacle."



National Archives, Records of the U.S. Senate

### The Death Penalty in the Post Civil War Era

- Lynching peaked in the decades after the Civil War, becoming a terrorizing form of extra-judicial executions carried out largely against black people. Lynchings declined the first part of the 20th Century, but executions became more common, in effect replacing lynching as a tool of racial violence against African Americans.

**CASE IN POINT**

**George Hays**, Governor of Arkansas wrote in 1927 that states needed the death penalty to address the "negro problem."

- A full 75% of those executed in the South from 1910 to 1950 were black, even though black people were less than a quarter of the South's population.
- Black defendants often received little due process, as trials and executions sometimes both took place in a single day.

**CASE IN POINT**

**George Stinney**, at 14 years old, was the death penalty's youngest victim during this era. After a two-hour trial and only 10 minutes of deliberation, an all-white jury sentenced him to death for the murder of two white girls. The testimony of an alibi witness and other evidence now point to Stinney's innocence, which resulted in him receiving a posthumous exoneration in 2014 - 70 years after his execution.



George Stinney mugshot, 1944

- ♦ Racial disparities for certain crimes, such as rape, were especially stark. A full 90% of the men executed for rape in the U.S. between 1930 and 1967 were black.

## Race and the Death Penalty in the Modern Era

- ♦ The Supreme Court outlawed the death penalty in 1972 because of its biased and arbitrary application. States then rewrote their death penalty laws to create more consistency in death sentencing, bringing the death penalty back in 1976. Not surprisingly, the revised laws failed to eliminate racial bias as promised.
- ♦ The race of the victim has a significant impact on who lives and who dies. Nationally, almost half (47%) of all murder victims since the 1970s are black. But for cases ending in an execution, only 17% of murder victims are black.
- ♦ Studies in states as diverse as California, Ohio, and Georgia have found that people convicted of murdering a white victim were many times more likely to get sentenced to death than people convicted of killing African Americans or Latinos.
- ♦ The U.S. Supreme Court acknowledged racial bias in the death penalty system during the landmark case, *McCleskey v. Kemp*. But the Justices ruled 5-4 that such bias did not violate the Constitution.



Scott Langley, [deathpenaltyphoto.org](http://deathpenaltyphoto.org)

**The death penalty's stark racial disparities send a message that the lives of people of color are less valuable than others.** This is unjust in its own right. It also compromises the integrity of the entire justice system. The death penalty is a tool of our shameful past - and that's where it should stay.

Sources available at [ejusa.org](http://ejusa.org)