

ONLY A HANDFUL OF OUTLIER COUNTIES STILL IMPOSE THE DEATH PENALTY

Americans returned 49 new death sentences in 2015, the lowest number in modern history. Yet, as the nation moves away from the death penalty, a handful of outlier counties continue to impose death sentences. Nationwide, in the six-year period between 2010 and 2015, only 10 counties imposed six or more death sentences.

A look at how the death penalty operates in these outlier jurisdictions reveals themes of overzealous prosecutors who often bend the rules, poorly performing defense lawyers, and a legacy of racial bias. Unsurprisingly, these outlier counties tend to share common results: an unacceptable history of convicting the innocent and individuals with crippling mental impairments.



OVERZEALOUS PROSECUTORS

Prosecutors wield incredible power in the U.S. legal system. Their discretion is the difference between life and death. Outlier counties are frequently the result of prosecutors who misuse their discretion and, in some cases, engage in misconduct.



Duval County prosecutor, Bernie De la Rionda, has personally obtained 11 death sentences since 2008, far more than any other prosecutor in Florida. **The Florida Supreme Court reversed three, or 27%, of his death penalty cases;** one for law enforcement misconduct and two after concluding that death was too severe of a punishment.

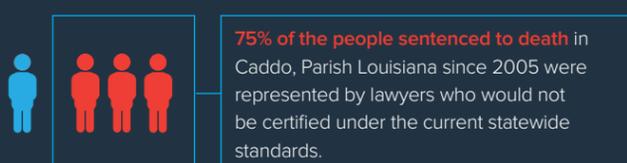
Orange County, California. A judge recused the entire Orange County District Attorney's Office from a capital trial this year because of **extensive misconduct.** Recently, three dozen former prosecutors, legal scholars, and organizations called on the Department of Justice to investigate the office.

Duval County, Florida. In 2015, prosecutor Bernie de la Rionda obtained a death sentence, with a split jury decision of eight to four, against a man with post-traumatic stress disorder who was sexually abused as a child and stabbed when he was three years-old.

Riverside County, California. In 2015, Riverside County produced **eight death sentences, more than any other county in America,** and more than Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas and Virginia combined. Earlier this year, Judge Alex Kozinski asked whether Attorney General Kamala Harris wanted to defend a conviction "obtained by lying prosecutors." The court reversed the conviction due to flagrant prosecutorial misconduct.

INEFFECTIVE DEFENSE LAWYERS

A competent defense lawyer is a crucial component of our legal system. Outlier death penalty counties are rife with poorly performing lawyers who rarely give the jury a reason to save the defendant's life.



Source: Death Penalty Information Center

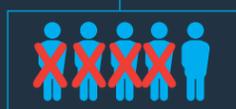
Maricopa County, Arizona. Randall Craig was the defense lawyer in two out of three cases resulting in death sentences in 2015. Five of his former clients are on death row. **A typical trial might have upwards of a dozen mitigation witnesses and last weeks or months. In contrast, several of Craig's cases involved zero or one mitigation witness.** A judge once had to remove Craig from a case after he claimed his heavy caseload prevented him from working more than two hours a day on it. In another case, Craig went nine months without visiting a client who was facing the death penalty.

Duval County, Florida. Refik Eler has been a defense lawyer on at least eight cases that resulted in a death sentence since 2008, more than any other lawyer in Florida. In 2015, a Florida court overturned a conviction and death sentence after finding that **Eler failed to conduct a basic factual investigation of the circumstances of the crime, failed to secure the testimony of alibi witnesses, and also failed to investigate evidence of his client's organic brain damage and intellectual disability.** Courts have found that Eler provided ineffective assistance of counsel in three different capital cases.

RACIAL BIAS

Racial bias frequently taints the entire criminal justice process in outlier counties. Today, the death penalty is more frequently used when the victim is white than when the victim is Black. In some states, like Louisiana, no white person has ever been executed for the murder of a Black man.

A report from the Equal Justice Initiative of Alabama found that Houston County **prosecutors used four-fifths of their jury selection challenges in death penalty cases to remove Black jurors.**



Clark County, Nevada. In a 2015 oral argument at the Nevada Supreme Court, one of the justices interrupted the prosecutor to criticize the striking of potential jurors, noting: "I just don't understand knocking these two black women off ... You are so afraid of losing that you knock off African Americans consistently." Last year, in *Connor v. State*, **the Nevada Supreme Court reversed a conviction in a capital case based on the prosecution's discriminatory jury selection.**

Harris County, Texas. Texas executed Juan Garcia from Harris County in 2015. An expert testified in Garcia's case that "race plays a role in that among dangerous people, minority people are overrepresented in this population." He also commented that race is a potential factor in determining a person's future dangerousness.

Houston County, Alabama. In December 2015, the police chief for the city of Dohan in Houston County acknowledged his membership in the Sons of the Confederacy. As reported in the Washington Post, the police chief acknowledged that **he named "his own son after Nathan Bedford Forrest, the first 'grand wizard' of the Ku Klux Klan."** Alabama courts have reversed three death sentences from Houston County since 2010.

EXONERATIONS

A 2014 study by a University of Michigan professor offered a conservative estimate that if all death row prisoners remained under sentence of death indefinitely, at least 4.1% would eventually be exonerated. This is perhaps the greatest injustice of this broken system and it is evident in the outlier counties.

Four out of seven death row exonerations in 2015 came from these outlier counties:

Jefferson County, Alabama. In 2015, both Montez Spradley and Anthony Ray Hinton were exonerated from death row in two unrelated Jefferson County cases.

Maricopa County, Arizona. Debra Milke was exonerated in 2015 after 22 years on death row.

Harris County, Texas. In June 2015, Harris County prosecutors dismissed all charges against Alfred Dewayne Brown, a man who spent more than 10 years on death row.