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New Report Places Oklahoma's Death Penalty in its Historical Context of Lynchings and Mass Violence Against Black Oklahomans and the Forced Migration of Native Americans

"Systemic issues in the state's use of the death penalty affect all capital defendants. However, the impact is skewed based on the race of defendant and victim, and the effects are particularly harsh on defendants of color."

On October 20, 2022, Oklahoma is scheduled to conduct the second in a series of 25 executions over a two-year period, or one execution nearly every month through 2024. As this protracted spree begins, the Death Penalty Information Center (DPIC) today released a report that documents the historical role that race has played in Oklahoma's death penalty and details the pervasive impact that racial discrimination continues to have in the administration of capital punishment.

The report, "Deeply Rooted: How Racial History Informs Oklahoma's Death Penalty," and related graphics are available at https://tinyurl.com/bdddu6ex.

"Ten Facts You Should Know About Oklahoma's Death Penalty" is available at https://tinyurl.com/2p8reph3

The report ties Oklahoma's use of the death penalty to its troubled history of racial violence and segregation. "To move towards true justice, Oklahoma must reckon with the harm that has already been inflicted by a criminal legal system in which race can determine who lives or dies," Dr. Tiffany Crutcher, Founder and Executive Director of the Terence Crutcher Foundation, said. "To understand this history, we must recognize the generational trauma inflicted on so many in Black communities, those who have been victims of racialized violence, those who have lost family members to murder with no redress, and those who have had to stand by as the legal system takes the lives of their loved ones."

The report observes that Oklahoma is at an inflection point in its administration of the death penalty and argues that if the state is to establish a fair and humane system of justice, it is crucial to acknowledge and redress the effects of Jim Crow and racial violence that persist into the present day.

"A bipartisan commission concluded that Oklahoma's death penalty was broken, discriminatory, and inhumane. After extensive study, the commission recommended a moratorium until reforms were made. Five years later, nothing has changed. A frenzy of 25 executions is not conservative, not limited government, and not pro-life," said Brett Farley, state coordinator for Oklahoma Conservatives Concerned About the Death Penalty.

The report notes that death sentences and executions are in decline nationally, making Oklahoma an outlier state. In 2021, 18 people were sentenced to death nationwide and 11 people were executed, the fewest since 1988. Oklahoma has executed more people per capita than any other state in the country. Oklahoma County and Tulsa County rank fourth and sixth, respectively, for the most executions by any county in the past fifty years. No county outside of Texas is responsible for more executions than either Oklahoma County or Tulsa County.

Racial discrimination, especially the race of the victim, continues to infect all aspects of the death penalty in Oklahoma. A study of homicides in the state between 1990 and 2012 found that the odds a person charged with killing a white female victim would be sentenced to death were 10 times greater than if the victim was a minority male. Of the 25 executions scheduled between August 2022 and December 2024, 68% involve white victims. Data throughout the report suggest that valuing white victims more than others has resulted in disproportionate punishment for Black defendants who murder white people.

An examination of the age and race of the men scheduled for execution reflects the bias that Black youth are perceived as older and less innocent than white youth. Seven of the 10 Black men set for execution were 25 years old or younger at the time of the crime. By contrast, only one of the 13 white men set for execution was 25 or younger at the time of his crime. Three of the Black men were 20 or younger and one of them, Alfred Mitchell, was only two weeks past his 18th birthday.

Of the 142 people in the U.S. who have been removed from death row because of intellectual disability (because of the U.S. Supreme Court's ruling that their executions are barred), the majority (83%) have been people of color. This suggests that people of color, especially Black people, with intellectual disability are at a greater risk of being subjected to capital punishment. Oklahoma has limited the ability for people on death row to seek relief based on intellectual disability. As the report notes, Michael Smith, a Black man scheduled for execution on July 6, 2023 has a documented, lifelong intellectual disability. Despite his medical diagnosis, Oklahoma has denied Mr. Smith a hearing on his intellectual disability.

At least five cases of those scheduled for execution in Oklahoma may have involved official misconduct, including Clarence Goode, a Black and Muscogee man set to be executed on August 8, 2024, who was convicted after the testimony of a detective who later served time in federal prison for misconduct in other cases. Nationwide, nearly 80% of wrongful capital convictions of Black people involve official misconduct by police, prosecutors, or other government officials.

The report states that Oklahoma has a history of defying U.S. Supreme Court decisions that would provide some measure of racial justice. For example, the Oklahoma Court of Criminal Appeals refused to apply *McGirt v. Oklahoma* (holding that the state lacked jurisdiction to prosecute crimes committed by or against Native American people on tribal lands)

retroactively to four death-row prisoners even after the Supreme Court had retroactively applied it in the case of Patrick Murphy, a Muscogee man, who challenged Oklahoma's jurisdiction because his crime was committed on tribal land. Thirty-seven Native American men and women have been sentenced to death in Oklahoma, more than in any other state. Two people currently scheduled for execution, Clarence Goode, Jr. and Alfred Mitchell, are Native American.

Today's report builds upon DPIC's 2020 report, "Enduring Injustice: the Persistence of Racial Discrimination in the U.S. Death Penalty." It is the first in a series of reports detailing how individual state histories of racial injustice inform the current use of capital punishment in those states. The next in the series will be Tennessee.

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The Death Penalty Information Center (www.deathpenaltyinfo.org) is a non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment. DPIC was founded in 1990 and prepares in-depth reports, issues press releases, conducts briefings for the media, and serves as a resource to those working on this issue. DPIC does not take a position on the death penalty but has been critical of how it is administered.