

September 25, 2023

Dear Governor Edwards and Board Members,

We write to commend you for your courage and leadership in elevating the discussion about the death penalty in Louisiana and urging the Board of Pardons to consider the clemency applications submitted by death row prisoners. Clemency provides a unique failsafe to address injustice and inequality. Clemency alone provides an opportunity for redress of systemic ailments that are not apparent in isolated case reviews, including racial bias. A decision to hear and award clemency in these cases will be a powerful step towards racial justice in Louisiana. Under your leadership, the merits of all clemency applications can be considered by the Board of Pardons. And under your leadership, the lives of every applicant that reaches your desk can be spared.

Dr. Martin Luther King Jr. described the moral arc of the universe as one that “bends toward justice.” Dr. King instructed that this prophecy of justice depends on us moving past complacency to confront the cancer of racial injustice. You are at a crossroads with a powerful opportunity to bend the arc by dealing a blow to the death penalty and its legacy of racial violence and injustice.

The death penalty stains American democracy and represents the worst excesses of the American legal system. The list of reasons to reject its use is long: it is dehumanizing, contributes to overly harsh sentences throughout the criminal justice system, and importantly, does not make us safer, as the research is clear that the death penalty does not deter violence.¹ We write and urge you to act on these petitions because of the racism endemic in the history and use of the death penalty.

Capital punishment continues to disproportionately harm Black people today due to persistent discrimination at every stage of the criminal legal system. In Louisiana, Black people make up only one-third of the States’ population, yet account for over 67 percent of capital cases in the state.² A large number of people on Louisiana’s death row have intellectual disability or were young, under the age of 25 at the time of the crime.³ Black people disproportionately form the majority of both of these groups.

The death penalty is also used in Louisiana most frequently in response to the loss of white life. When Black people are the victims of homicides, the chances of a capital prosecution

¹ Death Penalty Information Center, [STUDIES: FBI Crime Report Shows Murder Rates Remain Higher in Death Penalty States](#), Oct. 30, 2015, citing [Crime in the United States, 2014](#)”, U.S. Dept. of Justice (2015); DPIC analysis posted October 30, 2015)

² Death Penalty Information Center, [Racial Demographics](#), Oct. 2022, (citing NAACP Legal Defense Fund, [Death Row U.S.A.: Fall 2022](#)).

³ Death Penalty Information Center, [Mass Filing for Clemency Highlights Longstanding Systemic Problems with Louisiana’s “Broken” Death Penalty](#), June 14, 2023, <https://deathpenaltyinfo.org/news/mass-filing-for-clemency-highlights-longstanding-systemic-problems-with-louisianas-broken-death-penalty> (“40% of the state’s death row prisoners have documented intellectual disability. 47% were under 25 at the time of their crime”).

are low, and the odds of a death sentence exceptionally low.⁴ Defendants are 48 times more likely to be executed for killing a white woman than a Black man.⁵ These two strands of discrimination – more punitive punishment of Black defendants and lower use of the death penalty in Black victim cases – are a powerful force of discrimination in combination. Black suspects with white victims were 9 times more likely to be death sentenced than Black suspects with Black victims.⁶ Two thirds of people on death row were convicted of killing a white person; while only two are white persons condemned to death for killing a Black person.⁷ The solution isn't to subject more white people to the death penalty, it's to stop using it for everyone, because it doesn't produce safety and is invariably used in a racially discriminatory manner.

Death sentencing in Louisiana is the highest in cases with Black defendants and white female victims. This is a direct line to the earliest days of the death penalty as a tool of racial oppression. Of the first 16 people executed in Louisiana, 13 were Black – all were enslaved.

Louisiana made both the rape and the attempted rape of a white woman a capital crime.⁸ In contrast, the rape of a Black woman who was enslaved was not criminalized at all. In the wake of the civil war, alongside the rise of Klan violence and other forms racial terror, Louisiana saw frequent lynchings of Black men for the suspected crime of rape of white women. When lynchings decreased, executions increased. The patterns of racial discrimination hold through the modern death penalty. Of the 14 people executed for rape since 1941 in Louisiana, all were Black men.⁹ Thirteen of the 14 people executed were convicted of the rape of a white woman.¹⁰

Louisiana's death penalty is tragically error prone: Over the past 47 years, nearly 30 percent of people have been exonerated of the charges which put them on death row.¹¹ Here, too, racism plays a role. Eight of the eleven innocent persons sentenced to death and subsequently exonerated in Louisiana have been Black.¹²

Discrimination extends to the selection of juries. In Caddo Parrish, prosecutors struck Black jurors at three times the rate they struck white jurors.¹³ The Jefferson Parish prosecutors joked about wanting to seat “Nazis” on capital juries and wore “hangman noose” ties. All-white and nearly all-white juries have sentenced countless Black people to death.

⁴ Lyman, Tim, Baumgartner, Frank R., & Pierce, Glenn L., Race and Gender Disparities in Capitally-Charged Louisiana Homicide Cases, 1976-2014, available at: <https://fbaum.unc.edu/articles/SULR2022-CapitalCharging/SULR-2022-CapitalCharging.pdf>; see also Death Penalty Information Center, [Louisiana Study Reports Stark Death-Penalty Disparities Linked to Race and Gender of Victims](#), Aug. 31, 2015.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ See La. Sess. Acts 1857 p. 230 (death penalty mandatory for rape or attempted rape of any white female by a slave)

⁹ Burk Foster, [Struck by Lightning: Louisiana's Electrocutions for Rape in the Forties and Fifties](#), tbl. 1.

¹⁰ *Id.*

¹¹ Louisiana Illuminator, [Death penalty, despite high cost and few executions, stays put in Louisiana](#), May 25, 2023; see also, Death Penalty Information Center, [Innocence By the Numbers: Exonerations by State](#).

¹² Death Penalty Information Center, [Innocence by the Numbers: Death-Row Exonerations by Race and State](#).

¹³ See *Pipkins v. Stewart*, No. 5:15-CV-2722, 2019 WL 1442218 1 (W.D. La. Apr. 1, 2019).

This legacy of racial discrimination can stop with you. You have the opportunity to remedy longstanding disparity – not just for the several Black petitioners who were sentenced by all-white or nearly all-white juries – but for all petitioners prosecuted through a racially tainted system.

For as long as American states have had the death penalty, American governors have exercised the sacrosanct power of clemency to correct injustices the courts failed to address, and to extend mercy based on factors jurors never learned or appreciated. Clemency today remains the most powerful tool available to correct past injustices and ensure no one tomorrow is executed based on a system, built in a bygone era, which we now recognize to be broken, racist, and faulty. We therefore urge you to use this opportunity to act on all of these petitions from those on Louisiana's death row to address the systemic racism and other issues which are pervasive in Louisiana's use of the death penalty.

Sincerely,

Amnesty International USA
Color of Change
Death Penalty Action
The American Civil Liberties Union
The American Civil Liberties Union of Louisiana
The Faith Leaders of Color Coalition
The Justice Roundtable
The Prison Policy Initiative
Vera Institute for Justice