

# Capital Punishment is Racially Biased

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## Racial Disparities on Delaware's Death Row

Across the country, people of color are disproportionately represented on death row when compared to the nation's population. These disparities are even more evident in Delaware.

- **73% of the death row population is comprised of minorities.**<sup>i</sup> Of the 15 men on Delaware's death row (as of March 1, 2015), 4 are white (27%), 8 black (53%), and 3 are Hispanic (20%).
- In contrast, national figures show 43% of death row inmates are white, 42% are black, and 13% are Hispanic. **This is a minority death row population of 55%.**<sup>ii</sup>
- **A white person has not been sentenced to death in Delaware since 2003.**

## White Victim Cases are Most Likely to Get a Death Sentence

The race of the victim has a profound effect on which crimes receive the death penalty, particularly in Delaware.

- **70% of people murdered in Delaware are people of color**<sup>iii</sup>. Yet, only 31% of people executed were for cases where the victim was also a person of color<sup>iv</sup>.
- This means that the **victims in 69% of Delaware death penalty cases leading to conviction were white.**
- A study by Cornell Law School on Delaware's system of capital punishment found that black defendants who killed white victims were **6 times more likely**<sup>v</sup> to get the death penalty than black defendants who killed black victims.
- Delaware, again, displays more racial bias in its approach to capital punishment when compared to other states. Studies in states as diverse as California, Maryland, Ohio, and Georgia have found that people convicted of murdering a white victim were **4.5 times more likely**<sup>vi</sup> to get sentenced to death than those who killed African Americans or Latinos.

## Do Black Lives Matter in Delaware's Death Penalty?

Throughout the country, race impacts how people of color are treated when they are suspected or convicted of a crime and how they are treated when they are the victims of crime. Delaware is not immune to this crisis. Delaware's death penalty is a stark example of how these disparities devalue African American lives in our collective response to violence.

In Delaware, African Americans represent:

- 20% of the general population.
- 42% of those arrested for criminal offenses.
- 44% of those executed.
- 59% of those on death row.

When the public sees these levels of disparity in the death penalty, it compromises the integrity of the entire criminal justice system. It sends the message that some lives are more valuable than others.

## Death Penalty is the Sibling of Lynching

Delaware native Bryan Stevenson, founder and executive director of the Equal Justice Initiative, identifies capital punishment as the evolution of public lynching. According to a 2015 report from the Equal Justice Initiative *Lynching in America: Confronting the Legacy of Racial Terror*, “the decline of lynching in the studied states relied heavily on the increased use of capital punishment imposed by court order following an often accelerated trial. That the death penalty’s roots are sunk deep in the legacy of lynching is evidenced by the fact that public executions to mollify the mob continued after the practice was legally banned.”<sup>vii</sup>

From *Lynching in America*:

- In 96 percent of states where researchers have completed studies examining the relationship between race and the death penalty, results reveal a pattern of discrimination based on the race of the victim, the race of the defendant, or both.
- Capital trials today remain proceedings with little racial diversity; the accused is often the only person of color in the courtroom and illegal racial discrimination in jury selection is widespread.
- As contemporary proponents of the American death penalty focus on form rather than substance by tinkering with the aesthetics of lethal punishment to improve procedures and methods, capital punishment remains rooted in racial terror—“a direct descendant of lynching.”

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<sup>i</sup> State of Delaware Department of Corrections, Death Row, <<http://doc.delaware.gov/information/deathrow.shtml>>

<sup>ii</sup> Johnson, Sheri Lynn, Blume, John H., Eisenberg, Theodore, Hans, Valerie P. and Wells, Martin T., *The Delaware Death Penalty: An Empirical Study* (March 11, 2012). Cornell Law School.

<sup>iii</sup> From 2008 through 2012, approximately 70% of Delaware victims of homicide have been people of color (60% Black and 10% Hispanic/ Latino).

<sup>iv</sup> Death Penalty Information Center. 11 of 16 people executed in Delaware since 1992 were convicted of killing a White person.

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<sup>v</sup> Royer, Caisa Elizabeth et al, "Victim Gender and the Death Penalty" (2014). Cornell Law Faculty Publications. Paper 838. <<http://scholarship.law.cornell.edu/facpub/838>>

<sup>vi</sup> American Bar Association

<[http://www.americanbar.org/content/dam/aba/migrated/moratorium/assessmentproject/georgia/factsheet.aut\\_hcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/moratorium/assessmentproject/georgia/factsheet.aut_hcheckdam.pdf)>

<sup>vii</sup> Equal Justice Initiative, <<http://www.eji.org/files/EJI%20Lynching%20in%20America%20SUMMARY.pdf>>