

# US death penalty report: More “botched” executions in 2022 as public support for death penalty nears record low

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Eighteen men were executed in the United States in 2022, the fewest since 1991 with the exception of the pandemic years 2020 and 2021. The Death Penalty Information Center’s (DPIC) year-end report shows that the six states that carried out these executions displayed a callous disregard for legal due process for death row inmates and that mentally impaired people comprised the majority of the condemned.

In almost every case where death row inmates brought their cases to the US Supreme Court, the high court justices allowed their executions to proceed despite evidence of prisoners’ disabilities, states’ lack of transparency on lethal injection protocols and waning public support for capital punishment.

Many executions in 2022 were “botched,” with lethal injections inflicting torture on death row inmates. Several US states were forced to pause executions as they dealt with the fallout from these procedures gone horribly wrong.

The following individuals were put to death in 2022. All were executed by lethal injection.

**Matthew Reeves**, 44, January 27, Alabama: A jury did not hear mitigating evidence of his intellectual disability. The US Supreme Court allowed execution despite Reeves’ request to be executed by nitrogen gas instead of lethal injection.

**Donald Anthony Grant**, January 27, Oklahoma: Grant was brain damaged and diagnosed with schizophrenia. His lawyers told the parole board: “Executing someone as mentally ill and brain damaged as Donald Grant is out of step with evolving standards of decency.”

**Gilbert Ray Postelle**, 35, February 17, Oklahoma: Postelle suffered from intellectual deficits and mental illness. He was executed despite an ongoing case over the constitutionality of the state’s lethal injection protocol.

**Carl Wayne Buntion**, 78, April 21, Texas: Buntion had been the oldest man on death row and had been incarcerated for three decades.

**Carman L. Deck**, 56, May 3, Missouri: Deck was condemned to death following three trials. An attorney for Deck said he “endured a pattern of abuse, neglect and abandonment, which was mitigating evidence the Missouri Supreme Court called ‘substantial.’”

**Clarence Dixon**, 66, May 11, Arizona: Dixon was blind, diagnosed with schizophrenia and a member of the Navajo Nation, which strongly opposes the death penalty for cultural and religious reasons.

**Frank Jarvis Atwood**, 65, June 8, Arizona: His defense discovered an FBI memo indicating that an anonymous caller indicated the victim had been seen in a car not associated with Atwood.

**Joe Nathan James, Jr.**, 50, July 28, Alabama: An independent autopsy revealed that James suffered for at least three hours as executioners attempted to locate a vein for lethal injection, leaving his body mangled.

**Kosoul Chanthakoummane**, 41, August 17, Texas: His conviction was

obtained with discredited forensic testimony and he was executed over the objections of the victim’s family.

**James Allen Coddington**, 50, August 25, Oklahoma: During his hearing before the Oklahoma Pardon and Parole Board, Coddington’s attorney recounted her client’s years of alcohol and drug abuse, which began as an infant when his father put beer and whiskey in his baby bottles. He was executed despite the recommendation of the parole board that his life be spared.

**John Henry Ramirez**, 38, October 5, Texas: Ramirez was executed despite opposition of the Nueces County district attorney, who raised racial disparity in the imposition of the death penalty in Texas.

**Benjamin R. Cole**, 57, October 20, Oklahoma: Cole’s attorney said of his client, who suffered from schizophrenia and severe mental disability: “As Oklahoma proceeds with its relentless march to execute one mentally ill, traumatized man after another, we should pause to ask whether this is really who we are, and who we want to be.”

**Tracy Lane Beatty**, 61, November 9, Texas: Texas refused to unhandcuff the mentally ill and brain-damaged man so that mental health experts could conduct testing that his lawyers argued was necessary to demonstrate his “mental incompetence.”

**Murray Hooper**, 76, November 16, Arizona: Hooper was convicted based in part on the testimony of government witnesses who were provided by police with drugs, money and conjugal visits. He consistently maintained his innocence.

**Stephen Barbee**, 55, November 16, Texas: His conviction rested on false forensic testimony of a coroner who was subsequently suspended from performing autopsy examinations in homicide cases due to a pattern of errors and negligence.

**Richard Fairchild**, 63, November 17, Oklahoma: He was convicted of the brutal murder of his girlfriend’s three-year-old son. His attorneys argued that his trial counsel failed to present evidence of Fairchild’s severe childhood abuse and repeated traumatic brain injuries.

**Kevin Johnson**, 37, November 29, Missouri: A special prosecutor called for Johnson’s execution to be stayed so that claims of racial prejudice in his case could be heard in court, which was denied. Johnson’s 19-year-old daughter was also denied the right to attend his execution.

**Thomas Edwin Loden**, 58, December 14, Mississippi: The execution of Loden, a former Marine, proceeded despite an ongoing suit by him and other inmates challenging the state’s lethal injection protocol.

**Who is being executed in America?**

The DPIC report exposes the inequitable, sadistic and unconstitutional practice of the capital punishment system in the US, which punishes horrific crimes with retribution without seeking to probe the social roots of these crimes, claiming that this provides “closure” to victims’ families.

The 18 individuals executed this year included prisoners with severe mental illness, brain damage and intellectual disabilities. At least four of those put to death had suffered debilitating childhood trauma and abuse.

The Supreme Court outlawed execution of the “mentally retarded” in 2002 in *Atkins v. Virginia*. However, it has not ruled that execution of the mentally impaired—for instance, those suffering from childhood trauma and abuse, or those with schizophrenia or other mental illnesses—violates the Eighth Amendment’s ban on cruel and unusual punishment.

Richard Fairchild, executed in Oklahoma on November 17, sustained traumatic head injuries during his youth, both from an abusive father and as a result of boxing. Medical and military records show he suffered five additional head injuries as an adult. A psychiatrist evaluated him as having “severe organic brain syndrome,” but his lawyer did not raise this at trial.

Of the 18 people executed this year, 10 were white, five were black, one was Latino, one was Asian and one was Native American. Historically, minorities have been sentenced to death and executed disproportionate to their representation in the US population.

Where one is born and where a crime is committed also have a strong bearing on the likelihood of being sentenced to death or executed. Oklahoma and Texas performed more executions than any other states, accounting for more than half of the year’s executions, or 56 percent. Since the Supreme Court reinstated the death penalty in 1976, Oklahoma and Texas together have performed about 45 percent of all executions.

Of the 22 new death sentences handed down in 2022, California and Florida were responsible for four each.

Half of the men executed this year had spent at least 20 years on death row, a length of time recognized by human rights bodies as constituting “excess and inhuman punishment,” in violation of international human rights.

### **The year of the “botched” execution**

Seven of the 20 attempted executions of 2022 were “visibly problematic,” according to DPIC, a result of “executioner incompetence, failures to follow protocols, or defects in the protocols themselves.” States continued to shroud executions in secrecy, scrambling to find the drugs to carry them out as manufacturers in Europe and the US refused to provide them.

*The Atlantic* journalist Elizabeth Bruenig, who witnessed the private autopsy of Joe James Jr., executed on July 28 in Alabama, wrote: “Something terrible had been done to James while he was strapped to a gurney behind closed doors without so much as a lawyer present to protest his treatment or an advocate to observe it.”

She wrote of “carnage” on James’ body during what she called a “lengthy and painful death.” An anesthesiologist noted that there were puncture wounds in James’ musculature “not in the anatomical vicinity of a known vein.”

Executions were put on hold in Alabama, Tennessee, Idaho and South Carolina following botched executions or when states were unable to follow execution protocols due to lack of drugs or problems with procedures and personnel.

### **A disregard for fair process and judicial oversight**

Throughout the year, the states carrying out executions exhibited “a callous disregard for fair process and public or judicial oversight of their actions,” according to DPIC. The most egregious example was Oklahoma, which scheduled 25 executions over 29 months—and began carrying them out—despite an ongoing case by death row inmates challenging the state’s execution protocol.

Alabama carried or attempted to carry out several executions in 2022 in violation of state law, which authorizes a 30-day window for death row inmates to select nitrogen hypoxia instead of lethal injection for their impending executions.

Alabama prisoner Alan Miller claimed he had designated nitrogen hypoxia, but the state claimed it had not received the form. The Supreme Court vacated a lower court’s injunction against Miller’s execution, allowing the execution to proceed. However, the execution was called off when the prison’s team failed to set an IV line before Miller’s death warrant expired.

Mississippi executed Thomas Loden on December 14 despite an ongoing lawsuit by inmates against the state’s lethal injection protocol, while Texas carried out the October 5 execution of John Ramirez over the objections of the Nueces County district attorney.

### **Exonerations in 2022**

Two more death row prisoners were exonerated in 2022, bringing the number of US death row exonerations since 1973 to 190, according to DPIC. The organization’s analysis of data from the National Registry of Exonerations found that in 2021 at least 12 innocent people were also exonerated from wrongful murder convictions that had involved the wrongful pursuit or threatened use of the death penalty by police or prosecutors.

Samuel Randolph IV became Pennsylvania’s 11th death-row exoneree in April. Randolph had long maintained his innocence, claiming that police and prosecutors had withheld exculpatory evidence. The five exonerations occurring since 2019 in Pennsylvania involved both official misconduct and perjury or false accusation, with four involving inadequate legal representation at trial.

In August, an Illinois judge granted a motion filed by State’s Attorney Kim Foxx to dismiss all charges against Marilyn Mulero. Mulero had been framed for the murder of an alleged gang member by Chicago police detective Reynaldo Guevara and sentenced to death. DPIC writes: “Guevara has been accused of framing defendants of murder in more than 50 cases by beating, threatening, and coercing suspects to obtain false confessions.”

### **The role of the US Supreme Court**

Throughout 2022, the US Supreme Court continued to weaken or withdraw federal court regulation of death penalty cases, issuing decisions “severely limiting prisoners’ access to federal habeas corpus review to develop evidence of innocence, ineligibility for the death penalty, or constitutional violations at trial or sentencing and in refusals to review death-penalty issues that presented significant claims of constitutional violations,” DPIC writes.

The court continued its pattern of intervening to permit executions in cases in which lower federal courts had issued injunctions or stays of execution in place to adjudicate legal issues. The ultra-conservative court, voting mainly 6-3 along partisan lines, consistently denied defense applications for stays of execution this year.

In so ruling, the Supreme Court has continued its role in supporting the overall constitutionality of the death penalty. Since the death of Ruth Bader Ginsburg and the retirement of Anthony Kennedy, the high court justices have not granted a single stay of execution concerning the constitutionality of a death row prisoner's conviction or sentence.

The Court's stance contrasts with public opinion on the death penalty, which is evolving against it:

- Gallup's 2022 Crime Survey reported support for capital punishment held steady at 55 percent, one percentage point above the 50-year low of 54 percent in 2021.

- A poll by Rasmussen Reports released in November found that 46 percent of respondents said they favored capital punishment, while 28 percent said they opposed the death penalty and 26 percent were unsure.

- A poll released in February by the Justice Research Group found that by margins of more than 30 percentage points, Americans surveyed opposed the use of the death penalty against people with severe mental illness, brain damage or intellectual impairments, as well as against veterans with PTSD.



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