

Trump executive order calls for sweeping expansion of the death penalty

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Among the dozens of executive orders issued by President Donald Trump on Inauguration Day was one calling for a dramatic expansion of the use of the death penalty. The order utilizes falsehoods about the deterrent character of capital punishment, as well as about its constitutionality, to outline a fascist escalation of the already barbaric practice that continues to be carried out by the 27 US states, the federal government and the military.

The executive order, titled “Restoring the Death Penalty and Protecting Public Safety,” states that US policy must “ensure that the laws that authorize capital punishment are respected and faithfully implemented,” and claims that politicians and judges are subverting the law by “obstructing and preventing the execution of capital sentences.”

Trump’s order directs the US attorney general to “pursue the death penalty for all crimes of a severity demanding its use.” Specifically, it calls for the attorney general to pursue federal jurisdiction and seek the death penalty for capital crimes involving:

- The murder of a law-enforcement officer
- A capital crime committed by an alien illegally present in this country

These directives are not based on a surge in such crimes but are aimed at whipping up law-and-order and anti-immigrant hysteria in an effort to divide the working class and impose dictatorial rule.

As for the prevalence of killings of law-enforcement officials, data from the Officer Down Memorial Page shows that murders of police officers from 1990 to 2010 averaged 164 per year, while FBI data saw that figure drop to 27 police officers “feloniously” killed in 2013.

On the other hand, killings *by* police have consistently exceeded 1,000 per year since 2015, with 2024 seeing the highest number yet, with more than 1,250 killed by police, according to records from Mapping Police Violence.

Immigration-related crimes that currently fall under federal jurisdiction include illegal entry, visa fraud, human trafficking and harboring illegal immigrants. However, capital crimes committed by an undocumented immigrant do

not automatically fall under federal jurisdiction. The American Immigration Council finds in fact that undocumented immigrants are roughly 50 percent less likely to be arrested for violent crimes compared to the US-born population.

Trump’s demand for federal prosecution and death sentences for undocumented immigrants convicted of a capital crime are in line with his vilification of immigrants as “animals” who are “poisoning the blood of our country”—language reminiscent of foul Nazi rhetoric.

The Justice Department is also called upon to “encourage state attorneys general and district attorneys to bring State capital charges for all capital crimes,” giving special attention to homicides of police and capital crimes committed by undocumented immigrants, “regardless of whether the federal trial results in a capital sentence.”

In response to the outgoing Biden administration’s commutation of the death sentences of 37 federal prisoners, the executive order calls on the attorney general to “take all lawful and appropriate action to ensure that these offenders are imprisoned in conditions consistent with the monstrosity of their crimes and the threats they pose.”

The implication is that these prisoners removed from federal death row are living in relative comfort. The reality is that those incarcerated in Federal Bureau of Prisons (BOP) institutions are housed in deplorable and inhumane conditions, tantamount to physical and mental torture. A February 2024 press release from the Justice Department’s Office of the Inspector General found that of 344 inmate deaths at BOP facilities from fiscal year 2014 through fiscal year 2021, inmate suicides accounted for over half of deaths.

Conditions in federal prisons include cramped living spaces, overuse of solitary confinement, temperature extremes, poor ventilation, substandard healthcare, lack of mental health services, sexual abuse by both staff and other inmates, inadequate protection for vulnerable inmates, poor nutrition, and infestations of insects and vermin.

The ACLU recounts the words of one such federal prisoner: “These cells drive men mad. I have personally

witnessed one man take his life, another tried to by running the length of the tier and smashing his head into the front bars, sadly for him he still lives, if you can really call it that ...”

Trump calls for the attorney general to “take all necessary and lawful action to ensure that each state that allows capital punishment has a sufficient supply of drugs needed to carry out lethal injection.” Due to the refusal of drug companies in the US and abroad to provide states with the drugs for lethal injection, Trump wants the federal government to step in to ensure that the state assembly line of killings continues.

The executive order also calls on the attorney general to “take all appropriate action to seek the overruling of Supreme Court precedents that limit the authority of State and Federal governments to impose capital punishment.”

The high court’s rulings on the death penalty have evolved significantly over time due to the concept of “evolving standards of decency,” although it has consistently upheld the overall constitutionality of capital punishment. This principle, first articulated in *Trop v. Dulles* (1958), has been critical in the Court’s interpretation of the Eighth Amendment’s prohibition on “cruel and unusual punishments.”

Chief Justice Earl Warren wrote in the plurality opinion in *Trop*, “The [Eighth] Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.” This principle holds that interpretation of the Eighth Amendment’s meaning is not static but should be interpreted in light of contemporary societal norms.

Trump and his fascistic advisers would support the Supreme Court reversing its own rulings in the following cases:

- *Enmund v. Florida* (1982): Prohibited executions for those who did not kill or intend to kill.
- *Ford v. Wainwright* (1986): Banned executions of the insane.
- *Atkins v. Virginia* (2002): Banned executions of individuals with intellectual disabilities.
- *Roper v. Simmons* (2005): Prohibited executions of offenders under 18 at the time of the crime.

The introduction to “Restoring the Death Penalty and Protecting Public Safety” states:

Capital punishment is an essential tool for deterring and punishing those who would commit the most heinous crimes and acts of lethal violence against American citizens. Before, during, and after the founding of the United States, our cities, States, and country have continuously relied upon capital

punishment as the ultimate deterrent and only proper punishment for the vilest crimes. Our Founders knew well that only capital punishment can bring justice and restore order in response to such evil. For this and other reasons, capital punishment continues to enjoy broad popular support.

The above passage is packed with lies.

- Capital punishment is not a deterrent to “heinous crimes.” A study by the Death Penalty Policy Project found that since the US Supreme Court reinstated the death penalty in 1976, “the public and police are actually safer in states that don’t have or have recently abolished the death penalty” and that “the states that are now most actively carrying out executions are among the least safe for the public and most dangerous for police.”

- The Constitution does not refer to capital punishment. While the document does not specifically refer to the death penalty, the Eighth Amendment makes clear that “cruel and unusual punishments” are banned. Also, nothing in the Constitution or US law calls for federal jurisdiction over cases involving the murder of a law-enforcement officer, or for a capital crime committed by “an alien illegally present in this country.”

- Popular support for the death penalty continues to fall. Support for capital punishment remains at a five-decade low, with 53 percent of Americans favoring the death penalty for convicted murderers, according to [statista.com](https://www.statista.com). In 2019, only 36 percent of respondents favored the death penalty when life in prison without parole was offered as an alternative. These opinions have been influenced by distrust in the US judicial system, executions in which inmates have been subjected to horrific pain, the exoneration of wrongfully convicted death row inmates and growing awareness that innocent prisoners have likely been sent to their deaths.



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