

TEXAS VS CALIFORNIA

The death penalty, or capital punishment, is a controversial topic. Attitudes and orientations toward it reflect deeper values associated with the political culture of a society. Within the United States, various states have adopted different constitutional provisions and statutory laws regarding the death penalty. While both Texas and California carry the penalty, they offer differing perspectives on the issue.

Texas permits use of the death penalty, and specific language in the state constitution spells out the process for appeals. The Texas Penal Code permits capital punishment in cases of capital murder, including murder of on-duty public safety officers, intentional murder of another person, hiring another person to commit a murder, and the murder of individuals under age six, among others.

In contrast, California's state constitution prohibits forms of punishment that are "cruel or unusual." In 1972, California became the first state in the country to ban the death penalty when the justices on the California Supreme Court ruled that capital punishment met the cruel or unusual criteria. The state's voters, however, disagreed; later that year, the death penalty was restored to the California Constitution by constitutional referendum.

A key difference between the two states is that Texas regularly carries out the death penalty as a punishment while California does not. However, even though Texas has executed more persons than California since 1976, California has actually sentenced more people to death as the punishment for a crime. Several explanations exist for this difference in the rates of execution over time. First, prior to 1976, Texas and California each had executed over 700 individuals. Although both states reinstated the death penalty at approximately the same time, Texas began executing prisoners again in 1983. California did not execute a prisoner until 1992. Simply put, since reinstating the death penalty, Texas has been executing prisoners for a decade longer.ⁱ The reason for this involves the markedly differing natures of the two states' court systems in their orientation to the death penalty.

The California court system focuses on minimizing error to ensure that an innocent person is not put to death. In contrast, the Texas court system focuses on a speedy process and in so doing accepts a higher possible rate of error. As a result, California's appeals process requires both more time and more money be spent on it.ⁱⁱ The states also differ in their funding of a public defender system. California has a statewide public defender office that represents some death row inmates; Texas relies on pro bono work or contracts with local or regional lawyers. In addition, California falls under the jurisdiction of the U.S. Ninth Circuit Court of Appeals, whose Democratic-appointed majority is more likely to accept death penalty cases from the states in its jurisdiction, which serves to

Executions before and after 1976

	California	Texas
Total inmates on death row, 2013	742	278
Executions in 2013	0	9
Executions before 1976	709	755
Executions since 1976	13	515
Females executed since 1976	0	4

Sources: Death Penalty Information Center, State by State Database, 2014, www.deathpenaltyinfo.org/state.by.state (accessed July 15, 2014); Texas Department of Criminal Justice, "Executions: December 7, 1982, through August 20, 2012," September 21, 2012, www.tdcj.state.tx.us/death.row/dr.executions.by.year.html (accessed September 20, 2014).

delay the carrying out of a sentence. The same cannot be said of the U.S. Fifth Circuit Court of Appeals that oversees Texas.ⁱⁱⁱ

Finally, in California, the death penalty's true purpose may be to serve as a symbol, one charged with acknowledging the seriousness of an offense in order to deter crime or express society's distaste for an act. In this case, the death penalty is not really designed as a punishment since the individual sentenced to death will not actually be put to death quickly. Instead, convicted prisoners are far more likely to live out the rest of their lives in prison. Contrast this with Texas where the death penalty is most certainly intended to deter crime—the convicted prisoner in Texas sentenced to death will be put to death.

Debate over the death penalty in California resurfaced recently when the state was faced with a serious budget crisis and began looking to cut expenses. A recent study found that it costs California an extra \$125 million a year to retain the death penalty rather than to put everyone on death row in prison for life; this is in addition to \$95 million per year needed for additional staff.^{iv} On top of this, the state currently needs to build a new "death house" to keep up with its large death row population; the construction of this facility would cost another \$400 million.^v Finally, the costs of a capital murder trial in California typically run over \$1.9 million, three times the cost of a non-capital murder trial.^{vi} Cost estimates in Texas place its figure at \$1.2 million.^{vii} In short, in California today it is the economic costs incurred by retention of the death penalty, including the higher trial costs and the need to update the system, that is driving debate about the utility of capital punishment. In spite of that, in 2013, California voters defeated an initiative to abolish the death penalty in their state.