

January 25, 2021

President Joseph Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

cc:

Vice President Kamala Harris
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Acting Attorney General Monty Wilkinson
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Ambassador Susan Rice
Assistant to the President for Domestic Policy
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Biden:

We are a group of current and former elected prosecutors, Attorneys General, and law enforcement leaders, and former United States Attorneys, Department of Justice (DOJ) officials and judges, writing to urge you to begin your administration by making your commitment to justice clear: immediately take all actions within your power to end the federal death penalty once and for all. We applaud your stance against the death penalty and also believe that this is a critical moment in our nation for action. We need definitive and lasting steps that go beyond a moratorium that future administrations can readily undo. As such, we call on you to take action in a multifaceted and expansive way to: commute the sentences of all those on federal death row and withdraw current death penalty warrants, dismantle the death chamber at Terre Haute, encourage DOJ leadership to instruct all federal prosecutors to not seek the death penalty in future cases, support and incentivize state efforts to end capital punishment, and support legislation to end the federal death penalty.

Over the past year, we witnessed thirteen federal executions, all an assault on human dignity and an affront to American values. This killing spree laid bare the unacceptable injustices embedded in our nation's use of the death penalty: we watched as our government killed people with severe intellectual disabilities, people who had worked for decades to take responsibility for their crimes

and rehabilitate, and a woman with an unspeakable history of abuse and trauma. These tragedies demand bold and definitive action. And at a time when racial injustice, trust in law enforcement, and our nation's reputation in the eyes of the world are all in dire need of repair, anything short of these steps would fail to move our nation forward or attend to these pressing crises. We should not leave the lives of all people still on federal death row — and many more who will become entangled with the federal system — in the hands of future administrations. Nor should we continue to part company with other Western democracies in our willingness to implement a failed death penalty system. We ask you to choose justice, mercy, and compassion for our nation.

Many have tried for over forty years to make America's death penalty system just. Yet the reality is that our nation's use of this sanction cannot be repaired, and it should be ended. The death penalty raises serious concerns in tension with the constitutional ban against cruel and unusual punishment and the guarantees of due process and equal protection under the law.¹ It is unequally and arbitrarily applied, ineffective at improving public safety, and a waste of taxpayer resources; and its use presents the perilous risk of executing an innocent person.²

We also now know that we have not executed the worst of the worst, but often instead put to death the unluckiest of the unlucky – the impoverished, the poorly represented, and the most broken. Time and again, we have executed individuals with long histories of debilitating mental illness, childhoods marred by unspeakable physical and mental abuse, and intellectual disabilities that have prevented them from leading independent adult lives. We have executed individuals with trial lawyers so derelict in their duties and obligations that they never bothered to uncover long histories of illness and trauma. We have also likely executed the innocent.³

Race also plays a deeply disturbing and unacceptable role in the application of the death penalty. Studies have documented that defendants of color are disproportionately likely to be sentenced to die – this is particularly and uniquely true when the victim is white.⁴ The pernicious and racially disparate legacy of the death penalty is incontrovertible: people of color have accounted for a disproportionate 43% of executions in the United States since 1976, and 55% of defendants currently awaiting execution are people of color.⁵ Moreover, there are stark disparities in executions relative to the race of the victim: since 1976, a total of 21 white defendants were executed for crimes perpetrated against a Black victim; in contrast, in that same time period, 297 Black defendants were executed for crimes perpetrated against a white victim. Strikingly, while about 76% of all death penalty cases involve white victims, only one-half of all murder victims are white.⁶ This research underscores the systemic racism evident throughout our justice system.

The federal government should not ignore these issues in the best of times, but these concerns are especially acute in the midst of a global pandemic and calls for racial justice that have led to an ever-deepening erosion of trust in government and our criminal legal system. Our nation's use

¹ ACLU, The Case Against the Death Penalty (available at <https://www.aclu.org/other/case-against-death-penalty>).

² *Id.*

³ Andrew Cohen, Yes, America, We Have Executed an Innocent Man, *The Atlantic*, May 14, 2012 (available at <https://www.theatlantic.com/national/archive/2012/05/yes-america-we-have-executed-an-innocent-man/257106/>).

⁴ ACLU, Race and the Death Penalty (available at <https://www.aclu.org/other/race-and-death-penalty>).

⁵ Death Penalty Information Center, Executions by Race and Race of Victim (available at <https://deathpenaltyinfo.org/executions/executions-overview/executions-by-race-and-race-of-victim>).

⁶ *Id.*

of the death penalty separates us from many other democratic nations. Germany abandoned the death penalty after the Holocaust and enshrined protecting human dignity as a core value of its justice system. Italy abolished the death penalty to reckon with the horrors of fascism. Abolition of the death penalty was part of how these nations said “never again” to atrocity and oppression – and it is time for our nation to revisit its place in this history.

For all these reasons, we ask you to not only support federal legislative efforts to end capital punishment, but to take all steps in your power to disassemble the machinery of death and ensure future presidents cannot execute the dozens of people on federal death row at will. Every individual who remains on death row remains in peril. Every federal prosecutor who still seeks death sets in motion the wheels of a failed system and the government-sanctioned taking of the life of a fellow American. And keeping intact the death chamber at Terre Haute leaves the stage still set for unspeakable cruelty that says more about *us* as a society than it does about those we execute.

We call on you to begin your administration with these bold steps towards mercy and justice.

Most respectfully,

Hector Balderas

Attorney General, New Mexico

Diana Becton

District Attorney, Contra Costa County, California

Wesley Bell

Prosecuting Attorney, St. Louis County, Missouri

Buta Biberaj

Commonwealth’s Attorney, Loudoun County, Virginia

Shay Bilchik

Former Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice

Chesa Boudin

District Attorney, City and County of San Francisco, California

RaShall M. Brackney

Chief, Charlottesville Police Department, Virginia

Aisha Braveboy

State’s Attorney, Prince George’s County, Maryland

Bobbe J. Bridge

Former Associate Justice, Washington State Supreme Court

Jim Bueermann

Former Chief, Redlands Police Department, California
Former President, National Police Foundation

John T. Chisholm

District Attorney, Milwaukee County, Wisconsin

John Choi

County Attorney, Ramsey County, Minnesota

Jerry L. Clayton

Sheriff, Washtenaw County, Michigan

Dave Clegg

District Attorney, Ulster County, New York

Tristram J. Coffin

Former U.S. Attorney, District of Vermont

William M. Cohen

Former Assistant U.S. Attorney, District of Columbia

Shameca Collins

District Attorney, Sixth Judicial District, Mississippi

Laura Conover

County Attorney, Pima County, Arizona

Brendan Cox

Former Chief, Albany Police Department, New York
Director of Policing Strategies, LEAD National Support Bureau

John Creuzot

District Attorney, Dallas County, Texas

William B. Cummings

Former U.S. Attorney, Eastern District of Virginia

Satana Deberry

District Attorney, Durham County, North Carolina

Parisa Dehghani-Tafti

Commonwealth's Attorney, Arlington County and the City of Falls Church, Virginia

Steve Descano

Commonwealth's Attorney, Fairfax County, Virginia

W. Thomas Dillard

Former U.S. Attorney, Northern District of Florida

Former U.S. Attorney, Eastern District of Tennessee

Thomas J. Donovan, Jr.

Attorney General, Vermont

Michael Dougherty

District Attorney, Twentieth Judicial District, Colorado

Frank Dubofsky

Former Judge, Colorado Court of Appeals

Jean Dubofsky

Former Justice, Colorado Supreme Court

Matthew Ellis

District Attorney, Wasco County, Oregon

Keith Ellison

Attorney General, Minnesota

Charles W. Fels

Former Assistant U.S. Attorney, Eastern District of Tennessee

Former Assistant U.S. Attorney, Middle District of Tennessee

Kimberly M. Foxx

State's Attorney, Cook County, Illinois

Gil Garcetti

Former District Attorney, Los Angeles County, California

Stanley Garnett

Former District Attorney, Twentieth Judicial District, Colorado

José Garza

District Attorney, Travis County, Texas

George Gascón

District Attorney, Los Angeles County, California
Former District Attorney, City and County of San Francisco, California
Former Chief, San Francisco Police Department, California
Former Chief, Mesa Police Department, Arizona

Sarah F. George

State's Attorney, Chittenden County, Vermont

Joe Gonzales

District Attorney, Bexar County, Texas

Deborah Gonzalez

District Attorney, Western Judicial Circuit, Georgia

Eric Gonzalez

District Attorney, Kings County, New York

Mark Gonzalez

District Attorney, Nueces County, Texas

James P. Gray

Former Judge, Superior Court of Orange County, California

Joseph R. Grodin

Former Associate Justice, California Supreme Court

Andrea Harrington

District Attorney, Berkshire County, Massachusetts

Scott Harshbarger

Former Attorney General, Massachusetts
Former District Attorney, Middlesex County, Massachusetts

Jim Hingeley

Commonwealth's Attorney, Albemarle County, Virginia

Natasha Irving

District Attorney, Sixth Prosecutorial District, Maine

Kathleen Jennings

Attorney General, Delaware

Peter J. Kadzik

Former Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice

Melinda Katz

District Attorney, Queens County, New York

Peter Keisler

Former Acting Attorney General, U.S. Department of Justice

Robert Klonoff

Former Assistant to the Solicitor General, U.S. Department of Justice

Former Dean, Lewis & Clark Law School

Justin F. Kollar

Prosecuting Attorney, Kauai County, Hawaii

Lawrence S. Krasner

District Attorney, City of Philadelphia, Pennsylvania

Miriam Aroni Krinsky

Former Assistant U.S. Attorney, Criminal Appellate Chief, and General Crimes Chief, Central District of California

Former Chair, Solicitor General's Criminal Appellate Advisory Group, U.S. Department of Justice

William Lansdowne

Former Chief, San Diego Police Department, California

Former Chief, San Jose Police Department, California

Former Chief, Richmond Police Department, California

Stephen G. Larson

Former Assistant U.S. Attorney, Central District of California

Former Magistrate Judge, U.S. District Court, Central District of California

Former Judge, U.S. District Court, Central District of California

John Leonardo

Former U.S. Attorney, District of Arizona

Chris Magnus

Chief, Tucson Police Department, Arizona

Beth McCann

District Attorney, Second Judicial District, Colorado

Mary McCord

Former Acting Assistant Attorney General for National Security, U.S. Department of Justice

Former Principal Deputy Assistant Attorney General, National Security Division, U.S.

Department of Justice

Brian Middleton

District Attorney, Fort Bend County, Texas

Stephanie Morales

Commonwealth's Attorney, City of Portsmouth, Virginia

Marilyn J. Mosby

State's Attorney, Baltimore City, Maryland

Jody Owens

District Attorney, Hinds County, Mississippi

Jim Petro

Former Attorney General, Ohio

Joseph Platania

Commonwealth's Attorney, City of Charlottesville, Virginia

Bryan Porter

Commonwealth's Attorney, City of Alexandria, Virginia

Abdul Pridgen

Chief, Seaside Police Department, California

Karl A. Racine

Attorney General, District of Columbia

Kwame Raoul

Attorney General, Illinois

Ira Reiner

Former District Attorney, Los Angeles County, California

Former City Attorney, Los Angeles, California

Margaret Richardson

Former Chief of Staff and Counselor to the Attorney General, U.S. Department of Justice

Murray Richtel

Former Judge, Twentieth Judicial District Court, Colorado

Mimi Rocah

District Attorney, Westchester County, New York

Rachael Rollins

District Attorney, Suffolk County, Massachusetts

Jeff Rosen

District Attorney, Santa Clara County, California

Marian T. Ryan

District Attorney, Middlesex County, Massachusetts

Dan Satterberg

Prosecuting Attorney, King County, Washington

Eli Savit

Prosecuting Attorney, Washtenaw County, Michigan

Lois Schiffer

Former Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice

Mike Schmidt

District Attorney, Multnomah County, Oregon

Kevin Sharp

Former Judge, U.S. District Court, Middle District of Tennessee

Carol A. Siemon

Prosecuting Attorney, Ingham County, Michigan

Norm Stamper

Former Chief, Seattle Police Department, Washington

David E. Sullivan

District Attorney, Northwestern District, Massachusetts

Shannon Taylor

Commonwealth's Attorney, Henrico County, Virginia

Brett L. Tolman

Former U.S. Attorney, District of Utah

Raúl Torrez

District Attorney, Bernalillo County, New Mexico

Gregory Underwood

Commonwealth's Attorney, City of Norfolk, Virginia

Matthew Van Houten

District Attorney, Tompkins County, New York

Cyrus R. Vance

District Attorney, New York County, New York

Phil Weiser

Attorney General, Colorado