



U.S. NEWS

Oregon Governor's Bold Death Penalty Stand

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The state has capital punishment on the books, but Gov. John Kitzhaber says he will not allow anyone else to be put to death on his watch, angering those who say he is letting personal bias negate the law.

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Thirty years ago, a jury convicted a 19-year-old man named Gary Haugen of aggravated murder for killing his ex-girlfriend's mother at her home in northeast Portland, Ore., after finding out she'd tried to persuade her daughter to abort his child.

Haugen didn't get the death penalty then. Oregon voters were three years away from reinstating capital punishment by a statewide initiative, reversing the Oregon Supreme Court's 1981 decision declaring it unconstitutional. But when Haugen and another inmate bludgeoned and shanked a fellow prisoner at the Oregon State Penitentiary in 2003 with homemade knives and a steel screw—leaving the man with 84 stab wounds and a crushed skull—Marion County jurors decided it was a crime he should pay for with his life.

That won't happen, at least not while Gov. John Kitzhaber is running the state of Oregon. The physician known for wearing cowboy boots to the statehouse announced this week that the two executions he reluctantly presided over during his previous administration would be his last. Kitzhaber granted Haugen, 49, a reprieve, and said he will not allow anyone to be put to death on his watch, because Oregon's system of capital punishment is "broken."

"In my mind," Kitzhaber said, "It is a perversion of justice."

Haugen took the news well. "We won," the twice-convicted murderer told *The Oregonian* in a telephone interview Wednesday.

The inmate has long said his agreement to drop appeals was at least in part a protest against an unfair and expensive system, if also an obvious way to more quickly end his "mind-numbing" stay on The Row.





Oregon Gov. John Kitzhaber, Don Ryan / AP Photos

"It kills your spirit," he told the *Salem Statesman-Journal* in October, complaining of fatty food and boredom.

But Kitzhaber made clear at a Tuesday press conference that his decision had nothing to do with what Haugen wanted and everything to do with his own revulsion for the death penalty, especially the way it's administered in the Beaver State. He could have granted clemency to Oregon's 37 death-row inmates, but instead decided to punt the issue to the legislature and/or the state's voters, urging them to reconsider how and whether to have capital punishment.

The number of prisoners executed across the country has declined precipitously, due in part to scarcity of the drug used to send killers off to hell, or wherever.

If Oregon ultimately decides it's time for the death penalty to be retired, it will join three states in the past 10 years to show capital punishment the door. It began with Illinois Gov. George Ryan's decision in 2000 to grant clemency to the state's 167 death-row inmates, followed earlier this year by [a legislative repeal altogether](#). In 2007, New Jersey's legislature tossed the law, and in 2009, 11 state legislatures, from New Hampshire to New Mexico, considered abolition bills. New Mexico threw the penalty out, and Maryland restricted its application. Lawmakers in Connecticut voted for a ban, but the governor vetoed that.

Voter initiatives in California, Maryland, and Connecticut are expected next year, and if Oregon legislators heed Kitzhaber's call, the death penalty could end for good there too.

This trend is, of course, a boon to the practice's fervent and numerous [opponents](#), and a curse to those who insist above any substantial evidence that it deters crime.

"What I don't like about governors [Ryan and Kitzhaber] doing what they did is just by their own personal bias they completely negate a law that exists in a state," said Dudley Sharp, a Houston real-estate agent and longtime pro-death-penalty activist. "They just make it go away."

Capital punishment is Oregon law because voters decided that, added former Lincoln County District Attorney Bernice Barnett, who tried the case against Christian Longo, another of the state's 37 death-row inmates.

"The death penalty was the law when Governor Kitzhaber ran for office. Did he know at the time he ran he wouldn't follow it? Did the governor tell the citizens during the campaign?" Barnett asked. "I hope Governor Kitzhaber doesn't attempt to expand his personal authority and refuse to follow other Oregon state laws."

But Kitzhaber and other critics of the death penalty say the punishment is deeply flawed, especially as it is administered in his state. Oregon's statute is based on the law in Texas, which executes far more prisoners each year than any other state: 477 people since 1976.

"The initiative in 1984 told people we would have a cheap, simple, efficient

death penalty that was only going to execute the worst of the worst," said Portland attorney Jeff Ellis, a board member of Oregonians for Alternatives to the Death Penalty. "We have an expensive death penalty that doesn't work, with no requirement of proportionality, that captures the people who are the most mentally ill, the poorest, and it just hasn't worked, in practice. We haven't executed anybody against their will since we reinstated it."

It is too soon to tell whether individual states' repeal of the death penalty is spreading or sporadic, with just a handful of states ending the practice in recent years and 33 still allowing it, if you count Oregon's moratorium. But the number of prisoners actually executed across the country has declined precipitously over the past decade, due in part to costly legal appeals and the scarcity of the drug used to send killers off to hell, or wherever. The most common method of execution in the U.S. is lethal injection, via sodium thiopental, and the drug's supply is nearly tapped out, said Kamy Akavan, president of a research website called ProCon.org.

"It was made by one company, and then they ran out," Akavan said. "They were getting it from a factory in Italy but couldn't get the stuff fast enough."

In 1999, 98 prisoners were executed nationwide, according to the nonprofit Death Penalty Information Center. In 2010, that number had dropped to 46. Also declining is the number of people sentenced to death, down to 112 in 2009 from 277 a decade earlier. Oregon has executed only two people in the last 49 years, both of them "volunteers" who waived their appeals, and both while Kitzhaber was serving his first two terms as governor.

"I allowed those sentences to be carried out despite my personal opposition to the death penalty," Kitzhaber said. "I was torn between my personal convictions about the morality of capital punishment and my oath to uphold the Oregon Constitution."

And if the states keep batting back the punishment, one by one, the Supreme Court might even take notice and void the penalty altogether. If even a slim majority of the states were to ban the death penalty, that would make it increasingly "unusual," and a violation of the constitutional ban on cruel and unusual punishment.

"Courageous statements like [Kitzhaber's] can maybe start a snowball down the hill, and gather momentum," said Richard Dieter, executive director of the Death Penalty Information Center, noting that the Supreme Court declared the execution of juveniles and the mentally retarded "unusual" after enough states did so first. "It didn't take all the states."

That's a long way off at this point, but Kitzhaber's bold move this week is a win for the anti-death-penalty crowd whether it causes any ripples or not. If nothing else, it means Haugen gets to stare at the walls of his six-by-eight cell on Oregon's death row a few years longer, eating whatever fatty food the state decides to serve him.

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