

Where We Stand:

NAMI believes that all people should be treated with respect and dignity and experience equitable outcomes. NAMI opposes the death penalty for people with serious mental illness.

Why We Care:

People with mental illness are overrepresented in our nation's criminal justice system. Tragically, people with serious mental illness (SMI) are also overrepresented amongst individuals who have been [executed](#) or are currently on death row. While precise numbers are not available, there is evidence that SMI may increase the likelihood of being charged with a capital crime eligible for the death penalty, and [people of color](#) make up the majority of people on death row.

People with SMI are at a disadvantage when they face criminal charges and are particularly vulnerable to the inequities of the criminal justice system. Research has shown that individuals with SMI were 50% more likely to receive a jail sentence after a misdemeanor arrest – and serve [longer prison sentences](#) than those without mental illness. In death penalty cases, severe mental health symptoms can have broad impacts, including:

- Symptoms can increase the potential of making false confessions during investigations when facing aggressive questioning or interrogation.
- Active symptoms of mental illness raise questions about criminal intent and responsibility.
- Active symptoms can interfere with a person's ability to participate in their own defense or communicate with their attorneys.
- Anosognosia (when someone is unaware of their own mental health condition) can result in an individual not permitting their attorney to raise mental illness as a defense.
- The inexperience of attorneys who do not understand mental illness, and its impact on perceptions and rationality, further contributes to disparate outcomes.

Capital punishment for people with SMI raises questions of social and ethical responsibility. The U.S. Supreme Court has held that executing juveniles and people with intellectual disabilities is cruel and unusual punishment,

prohibited by the U.S. Constitution. The rationale behind these decisions was simple: individuals whose brains were either not fully developed or impaired lack the culpability necessary to be executed. In its ruling, the Court cites diminished capacity, ability to engage in logical reasoning, control of impulses or ability to participate meaningfully in their own defense as factors for why the death penalty should not be applied in these cases. These factors are applicable to the active symptoms of SMI, such as the delusions and hallucinations characteristic of psychosis.

NAMI has a long history of advocating in death penalty cases involving people with SMI. While the facts of the cases have varied, they have typically involved individuals who did not receive appropriate treatment for their mental health condition prior to their crimes. In many of the cases, the impact of mental illness was not raised, evaluated or considered during trial.

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NAMI's position opposing death sentences or the execution of people with SMI applies to all persons who meet criteria for serious mental illness at the time of their alleged crime, during the pre-trial phase of their case, at trial and sentencing or after being convicted and sentenced.

Many countries around the world have banned executions of people with mental and intellectual disabilities, and as recently as 2018, the General Assembly of the United Nations passed a [resolution](#) calling on all member countries that still apply the death penalty to enact similar bans. Banning executions of people with serious mental illness in the U.S. is long overdue, consistent with current understanding about mental illness and the brain.

To learn more about NAMI's work on this issue, visit www.nami.org/Advocacy/Policy-Priorities