

Thank you,

My name is Bill Pelke and I live in Anchorage.

I am a board member of Alaskans Against the Death Penalty. I am a founding member of the World Coalition to Abolish the Death Penalty. I have been a board member of the National Coalition to Abolish the Death Penalty since 1996, serving as chair from 2005-2008. I am a founding and present board member of Murder Victim's Families for Human Rights. I am a cofounder, President and Chairman of the board of the Journey of Hope...from Violence to Healing. I have written a book with the same name and I will be presenting a copy to this committee.

The Journey of Hope is an organization led by murder victim's family members who are opposed to the death penalty in all situations. We conduct speaking tours throughout the country and around the world. We share our stories of from violence to healing. We talk about how the death penalty has absolutely nothing to do with the healing that murder victim family members need after a loved one has been killed and how in fact it continues the cycle of violence and creates more murder victim family members.

On our tours we are joined by death row family member, some who have loved ones on death row, and some whose loved ones have been executed. They share with the audiences the pain that the death penalty brought to their family. Exonerated death row survivors also join us. They share what they and their families went through after being sentenced to death for crimes of murder for which they were innocent. Over 130 people have been sentenced to death by various states in this country since the death penalty was reinstated in 1976 for crimes they didn't commit. Fortunately they were able to prove their innocence before their executions took place.

Each one of them will tell you that they were not saved by the system; they were saved in spite of the system. As long as you have human beings making these decisions we are going to make mistakes. When it comes to the death penalty there is no room for mistakes.

My grandmother was brutally murdered in 1985 when four teenage girls entered her home on the pretext of taking Bible lessons that she taught. One of the girls, Paula Cooper who was fifteen-year-old at the time of the crime was sentenced to die in the electric chair by the state of Indiana. Although I

originally supported her death sentence I became convinced that my grandmother would have been appalled that this girl was on death row and that so many people wanted to see her burn. I was convinced beyond a shadow of a doubt that she would have in fact had love and compassion for Paula and her family.

I felt my grandmother wanted someone in my family to have that same sort of love and compassion and I felt it fell upon my shoulders. I didn't have any love or compassion for this girl, but so convinced that is what Nana would have wanted I begged my God to give me love and compassion for Paula Cooper and her family.

That prayer was answered, and when it was I knew I could no longer wanted her to die. You cannot have compassion for someone and want to see them put into the death chamber. It is impossible. The answer is not the death penalty; the answer is love and compassion for all of humanity.

Marietta Jaeger Lane, a Journey of Hope cofounder, made this statement concerning the kidnapping and murder of her precious seven-year-old daughter. "No amount of retaliatory deaths will make up for Susie's murder. To say the death of one malfunctioning individual will repay the inestimable value of my little girl is insulting. It's really an insult to our loved ones."

Thank you

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:39 AM
To: Tom Wright; Jane Pierson
Subject: Physicians & The State Execution of Murderers: No Ethical/Medical Dilemma

Physicians & The State Execution of Murderers: No Ethical/Medical Dilemma
The Hippocratic Oath and "Do No Harm" have nothing to do with executions
Dudley Sharp, Justice Matters, contact info below

Some in the medical community have attempted to create an ethical prohibition against medical professionals involvement in state executions by invoking the famous "do no harm" credo and words within the Hippocratic Oath.

Neither reference is in the context of the state execution of murderers.

THE OATH OF HIPPOCRATES

The select Hippocratic Oath quote, in its original (translated) form, is "I will give no deadly medicine to any one if asked, nor suggest any such counsel; . . ." (1) It is a prohibition against euthanasia and has nothing to do with some imagined medical prohibition of participation in state sanctioned executions.

I am unaware of any other ancient texts or translations which indicate a historical context, with that quote, that prohibits physicians from participation in executions.

In 2004, Dr. Markel, a medical historian, writes, "There are two highly controversial vows in the original Hippocratic Oath that we continue to ponder and struggle with as a profession: the pledges never to participate in euthanasia and abortion." (2)

In reality, these are, barely, controversial, now. They are, however, inconvenient. The article never mentions a context of state execution of murderers, because the oath has nothing to do with it.

Dr. Markel continues: "The Hippocratics' reasons for refusing to participate in euthanasia may have been based on a philosophical or moral belief in preserving the sanctity of life or simply on their wish to avoid involvement in any act of assisted suicide, murder, or manslaughter." (2)

Dr. Markel is speculating. What we do know is that it was a reference to euthanasia, specifically. There is not even speculation that the reference had anything to do with the state execution of murderers.

The following are "...the results of a study . . . in which 157 deans of allopathic and osteopathic schools of medicine in Canada and the United States were surveyed regarding the use of the Hippocratic Oath": (3)

1. In 1993, 98% of schools administered some form of the Oath.
2. In 1928, only 26% of schools administered some form of the Oath.
3. Only 1 school used the original Hippocratic Oath.
4. 68 schools used versions of the original Hippocratic Oath.
5. 100% of current Oaths pledge a commitment to patients.
6. Only 43% vow to be accountable for their actions.
7. 14% include a prohibition against euthanasia.
8. Only 11% invoke a diety.
9. 8% prohibit abortion.

10. Only 3% prohibit sexual contact with patients.

There is no mention of the state execution of murderers, because the Hippocratic Oath has nothing to do with it.

Although there is no prohibition on the death penalty, there is one against both euthanasia and abortion. Yet, various medical associations have decided to create an imagined ethical problem with the death penalty and have, nearly, fully accepted both abortion and euthanasia.

Now, only 3% prohibit sexual contact with patients, but the original Hippocratic Oath states: "(I) will abstain from every voluntary act of mischief and corruption; and, further, from the seduction of females or males, of freemen and slaves."

100% pledge a commitment to their patients, but only 43% vow being accountable for their medical actions. Some commitment. (3A)

With these survey results and with medical professionals bringing up the Hippocratic Oath, as if it has something to say in the death penalty debate, possibly we should, now, in the true context of euthanasia and abortion, and other issues, call it what it has become, the Hypocrisy Oath. For example, is the North Carolina Medical Board trying to prevent physicians from performing abortions or have they issued a statement condemning euthanasia? Of course not. But the death penalty? Well, doctors must not participate!

The doctors doth protest too much, me thinks.

DO NO HARM

The famous physician credo "First, do no harm" (a phrase translated into Latin as "Primum non nocere") is often mistakenly ascribed to the (Hippocratic) oath, although it appears nowhere in that venerable pledge." (2)

"Hippocrates came closest to issuing this directive in his treatise Epidemics, in an axiom that reads, "As to disease, make a habit of two things — to help, or at least, to do no harm." (2)

"As to disease". Nothing else. There is no relevance outside medicine and, most certainly, no prohibition against medical professionals participation in the state execution of murderers.

REASON & REALITY

Those ethical codes pertain to the medical profession, only, and to patients, only.

Judicial execution is not part of the medical profession and executions do not make death row inmates patients. Is that news?

The acknowledged anti death penalty editors of The Public Library of Science (PLOS) Medicine agree. They write:

"Execution by lethal injection, even if it uses tools of intensive care such as intravenous tubing and beeping heart monitors, has the same relationship to medicine that an executioner's axe has to surgery." ("Lethal Injection Is Not Humane", PLoS, 4/24/07).

The PLoS Medicine editors make the obvious point: The state execution of murderers is not equivalent or connected to the medical treatment of patients. There is no ethical or moral connection. Hardly a mystery.

Similar acts and similar equipment do not establish any ethical equivalence or connection. Any rational person can see that the state execution of murderers is not a medical treatment, but a criminal justice sanction. The basis for medical treatment is to improve the plight of the patient, for which the medical profession provides obvious and daily exceptions. The basis for execution

is to carry out a criminal justice sentence where death is the sanction.

Doctors and nurses can be police and soldiers and can kill, when deemed appropriate, within those lines of duty and without violating the ethical codes of their medical profession, because there is no ethical connection. Similarly, medical professionals do not violate medical codes of ethics, when participating in the state execution of murderers.

Physicians are often part of double or triple blind studies where there is hope that the tested drugs may, someday, prove beneficial. The physicians and other researchers know that many patients, taking placebos or less effective drugs, will suffer more additional harm or death because they are not taking the subject drug or that the subject drug will actually harm or kill more patients than the placebo of other drugs used in the study.

Physicians knowingly harm individual patients, in direct contradiction to their "do no harm" oath.

For the greater good, those physicians sacrifice innocent, willing and brave patients. Of course, there have been medical experiments without consent and, even, today, they continue ("Critical Care Without Consent", Washington Post, May 27, 2007; Page A01).

Physicians knowingly make exceptions to their "do no harm" requirement, every day, within their profession, where that code actually does apply. And, they should. There are obvious ethical nuances and we should consider and pay attention to them, as is done within the medical profession.

SEE DO NO HARM: Additional Notes, at bottom.

Physicians and medical institutions will pick and chose those ethical foundations which they, from time to time and issue to issue, find convenient and, hopefully, truly relevant to ethics.

Medical professionals need to stop the ridiculous ethical posturing and tell the truth - they don't like the death penalty. In medical writings, against executions, you can easily find a strong bias, evidenced by use of the common and inaccurate anti death penalty claims, with no apparent effort at fact checking or balance. (4)

Any participation in executions by medical professionals should be a matter for their own personal conscience. In fact, 20-40% of doctors surveyed would participate in the execution process.

There is no ethical prohibition against medical professionals participating in executions. Stop using personal bias to create one.

It's unethical.

DO NO HARM: Additional Notes:

40,000 to 100,000 innocents die, every year, in the US because of medical misadventure or improper medical treatment. (5)

It appears that some 500-1000 innocent patients die, every year, in the US, due to some type of medical misadventure, with anesthesia. (5)

There is no proof of an innocent executed in the US since 1900.

Furthermore, even with errors in lethal injection, those cases resulted in the death of the inmate - the intended outcome for the guilty murderer.

In the errors of medical professionals, we are speaking of a large number of deaths and injuries

to innocent patients - the opposite of the intended outcome.

1) Original Oath of Hippocrates

<http://www.imagerynet.com/hippo.orig.html>

2) "'I Swear by Apollo' - On Taking the Hippocratic Oath", New England Journal of Medicine, May 13, 2004 article, by Howard Markel, PhD, MD, Director of the Center for the History of Medicine at the University of Michigan Medical School

3) "The Use of the Hippocratic Oath: A Review of 20th Century Practice and a Content Analysis of Oaths Administered in Medical Schools in the U.S. and Canada in 1993." by Robert D. Orr, M.D. and Norman Pang, M.D. <http://www.imagerynet.com/hippo.ama.html>

3A) It is the ethical equivalent of reporters saying we are 100% devoted to bringing accuracy to our readers, but only 43% of us will fact check.

4) "An absolute: Doctors don't kill", op/ed, by Dr. Charles van der Horst, News and Observer, Dec 04, 2008). My response to him can be found as "Is Dr. van der Horst just ignorant or something else? Doc?" in the comments section for "Clap hands, here comes Charlie", UNC Healthcare Blog, December 8, 2008, 4:30 pm
<http://unchealthcare.wordpress.com/2008/12/08/clap-hands-here-comes-charlie/>

5) "Deaths from Medical Misadventure" at

www.wrongdiagnosis.com/m/medical_misadventure/deaths.htm and

"Health Grades Quality Study: Patient Safety in American Hospitals, July 2004"

www.healthgrades.com/media/english/pdf/HG_Patient_Safety_Study_Final.pdf

Additional info

The following is a Dutch protocol for parenteral (intravenous) administration to obtain euthanasia:

Intravenous administration is the most reliable and rapid way to accomplish euthanasia and therefore can be safely recommended. A coma is first induced by intravenous administration of 20 mg/kg sodium thiopental (Nesdonal) in a small volume (10 ml physiological saline). Then a triple intravenous dose of a non-depolarizing neuromuscular muscle relaxant is given, such as 20 mg pancuronium bromide (Pavulon) or 20 mg vecuronium bromide (Norcuron). The muscle relaxant should preferably be given intravenously, in order to ensure optimal availability. Only for pancuronium bromide (Pavulon) are there substantial indications that the agent may also be given intramuscularly in a dosage of 40 mg.

www.week.com/___ALL_OLD_HTML/euthanasics.html

originally written May, 2005. Updated as merited.

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Mr. Sharp has appeared on ABC, BBC, CBS, CNN, C-SPAN, FOX, NBC, NPR, PBS, VOA and many other TV and radio networks, on such programs as Nightline, The News Hour with Jim Lehrer, The O'Reilly Factor, etc., has been quoted in newspapers throughout the world and is a published author.

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From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:36 AM
To: Tom Wright; Jane Pierson
Subject: Catholic Scholars: Support for the Death Penalty

Catholic Scholars: Support for the Death Penalty
Dudley Sharp, Justice Matters, contact info below

There are thoughtful writings on both sides of this debate, but the pro death penalty position is much stronger.

Recently deceased Avery Cardinal Dulles, in one of his final interviews, states that he thought the Church may return to a "more traditional posture" on the death penalty. "Recent popes, Dulles conceded, beginning with John XXIII, seem to have taken quasi-abolitionist positions on both matters. Yet used sparingly and with safeguards to protect the interests of justice, Dulles argued, both the death penalty and war have, over the centuries, been recognized by the church as legitimate, sometimes even obligatory, exercises of state power. The momentum of "internal solidification," he said, may lead to some reconsideration of these social teachings." ("An unpublished interview with Avery Dulles", All Things Catholic by John L. Allen, Jr., NCRcfe.org, Posted on Dec 19, 2008, at <http://ncrcfe.org/node/2340>)

Based upon the strength of the Catholic biblical, theological and traditional support for the death penalty as, partially, revealed, below, I think the Church will have to.

Even today, a Catholic in good standing can call for more executions, if their prudential judgements finds for that.

(1) "Capital Punishment: New Testament Teaching", 1998, Fr. John A. Hardon, S.J., considered one of the most prominent Roman Catholic theologians of the 20th century. See bottom. [http://www.therealpresence.org/archives/Sacred Scripture/Sacred Scripture 014.htm](http://www.therealpresence.org/archives/Sacred%20Scripture/Sacred%20Scripture%20014.htm)

"There are certain moral norms that have always and everywhere been held by the successors of the Apostles in communion with the Bishop of Rome. Although never formally defined, they are irreversibly binding on the followers of Christ until the end of the world." "Such moral truths are the grave sinfulness of contraception and direct abortion. Such, too, is the Catholic doctrine which defends the imposition of the death penalty."

"Most of the Church's teaching, especially in the moral order, is infallible doctrine because it belongs to what we call her ordinary universal magisterium."

"Equally important is the Pope's (Pius XII) insistence that capital punishment is morally defensible in every age and culture of Christianity." " . . . the Church's teaching on 'the coercive power of legitimate human authority' is based on 'the sources of revelation and traditional doctrine.' It is wrong, therefore 'to say that these sources only contain ideas which are conditioned by historical circumstances.' On the contrary, they have 'a general and abiding validity.' (Acta Apostolicae Sedis, 1955, pp 81-2)."

about Fr. John A. Hardon, S.J.

<http://www.mariancatholic.com/html/general/stjohnhardon.htm>

<http://www.therealpresence.org/archives/archives.htm>

<http://www.mariancatholic.com/html/general/fatherhardon.htm>

<http://www.saintphilomena.com/newpage4.htm>

<http://credo.stormloader.com/Saints/hardon.htm>

(2) "The Death Penalty", by Romano Amerio, a faithful Catholic Vatican insider, scholar, professor at the Academy of Lugano, consultant to the Preparatory Commission of Vatican II, and a peritus (expert theologian) at the Council.

<http://www.domid.blogspot.com/2007/05/amerio-on-capital-punishment.html>

"Amerio has the great gift of going to the heart of a subject in a few lines and very neatly distinguishes genuine Catholicism from imitations and aberrations." "What makes Amerio's analysis unique is that he restricts himself to official and semi-official pronouncements by popes, cardinals, bishops, episcopal conferences and articles in L'Osservatore Romano, from the time of Pope John XXIII to 1985 when the book was originally written." (1)

titled "Amerio on capital punishment ", Chapter XXVI, 187. The death penalty, from the book Iota Unum, May 25, 2007

About Romano Amerio

<http://chiesa.espresso.repubblica.it/articolo/176565?eng=y>

<http://www.newliturgicalmovement.org/2006/02/romano-amerio-and-pope-benedict.html>

<http://www.latin-mass-society.org/2007/romanoamerio.html>

<http://www.angeluspress.org/oscatalog/item/6700/iota-unum>

(3) "Christian Scholars & Saints: Support for the Death Penalty", at <http://www.homicidesurvivors.com/2006/10/12/catholic-and-other-christian-references-support-for-the-death-penalty.aspx>

(4) "Capital Punishment: A Catholic Perspective",
by Br. Augustine (Emmanuel Valenza)

http://www.ssp.org/against_the_sound_bites/capital_punishment.htm

(5) "Capital Punishment: The Case for Justice", Prof. J. Budziszewski, First Things, August / September 2004 <http://www.orthodoxytoday.org/articles4/BudziszewskiPunishment.shtml>

(6) "The Death Penalty", by Solange Strong Hertz at <http://www.ourworld.compuserve.com/HOMEPAGES/REMNANT/death2.htm>

(7) "A Seamless Garment In a Sinful World" by John R. Connery, S. J., America, 7/14/84, p 5-8).

(8) "God's Justice and Ours" by US Supreme Court Justice Antonin Scalia, First Things, 5/2002 http://www.firstthings.com/article.php3?id_article=2022

(9) Forgotten Truths: "Is The Church Against Abortion and The Death Penalty"
by Luiz Sergio Solimeo, Crusade Magazine, p14-16, May/June 2007
http://www.tfp.org/index.php?option=com_content&task=view&id=957

(10) "The Purpose of Punishment (in the Catholic tradition)",
by R. Michael Dunningan, J.D., J.C.L., CHRISTIFIDELIS, Vol.21,No.4, sept 14, 2003
<http://www.st-joseph-foundation.org/newsletter/lead.php?document=2003/21-4>

(11) "MOST CATHOLICS OPPOSE CAPITAL PUNISHMENT?",
KARL KEATING'S E-LETTER, Catholic Answers, March 2, 2004
http://www.catholic.com/newsletters/kke_040302.asp

- (12) "THOUGHTS ON THE BISHOPS' MEETING: NOWADAYS, VOTERS IGNORE BISHOPS",
KARL KEATING'S E-LETTER, Catholic Answers,, Nov. 22, 2005
http://www.catholic.com/newsletters/kke_051122.asp

Christian, non Catholic Scholars

- (13) Chapter V: The Sanctity of Life, "Principles of Conduct: Aspects of Biblical Ethics" By John Murray
http://books.google.com/books?id=phoqAAaGMpUC&pg=PA107&lpg=PA114&ots=mFvByHqGSy&dq=Murray+%22It+is+the+sanctity+of+human+life+that+underlies+the+sixth+commandment.%22&ie=ISO-8859-1&output=html&sig=ACfU3U1bomdM3BfpNSXnhwFYXaE_9Ij9A

- (14) "Capital Punishment: What the Bible Says", Dr. Lloyd R. Bailey, Abingdon Press, 1987. The definitive biblical review of the death penalty.

- (15) "Why I Support Capital Punishment", by Andrew Tallman
sections 7-11 biblical review, sections 1-6 secular review
<http://andrewtallmanshowarticles.blogspot.com/search?q=Capital+punishment>

Religious positions in favor of capital punishment are neither necessary nor needed to justify that sanction. However, the biblical and theological record is very supportive of the death penalty.

Many of the current religious campaigns against the death penalty reflect a fairly standard anti death penalty message, routed in secular arguments. When they do address religious issues, they often neglect solid theological foundations, choosing, instead, select biblical sound bites which do not impact the solid basis of death penalty support.

Footnotes:

- (1) Books: 'Iota Unum: A Study of Changes in the Catholic Church', by Romano Amerio, Fr Peter Joseph (reviewer)
IOTA UNUM: A Study of Changes in the Catholic Church in the 20th Century
by Romano Amerio (English translation by Fr John Parsons)
(Sarto House, USA, 786 pp)
Reprinted from AD2000 Vol 9 No 8 (September 1996), p. 14

70% of Catholics supported the death penalty as of May, 2005, Gallup Poll, Moral Values and Beliefs. The May 2-5, 2005 poll also found that 74% of Americans favor the death penalty for murderers, while 23% oppose.

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Mr. Sharp has appeared on ABC, BBC, CBS, CNN, C-SPAN, FOX, NBC, NPR, PBS, VOA and many other TV and radio networks, on such programs as Nightline, The News Hour with Jim Lehrer, The O'Reilly Factor, etc., has been quoted in newspapers throughout the world and is a published author.

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From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:33 AM
To: Jane Pierson
Subject: The Death Penalty Provides More Protection for Innocents

**The Death Penalty Provides More Protection for Innocents
Dudley Sharp, Justice Matters, contact info below**

Often, the death penalty dialogue gravitates to the subject of innocents at risk of execution. Seldom is a more common problem reviewed. That is, how innocents are more at risk without the death penalty.

Enhanced Due Process

No knowledgeable and honest party questions that the death penalty has the most extensive due process protections in US criminal law.

Therefore, actual innocents are more likely to be sentenced to life imprisonment and more likely to die in prison serving under that sentence, that it is that an actual innocent will be executed.

That is. logically, conclusive.

Enhanced Incapacitation

To state the blatantly clear, living murderers, in prison, after release or escape, are much more likely to harm and murder, again, than are executed murderers.

Although an obvious truism, it is surprising how often folks overlook the enhanced incapacitation benefits of the death penalty over incarceration.

There are a few absolutes when it comes to Life Without Parole. The legislature can lessen sentences, retroactively, and the executive branch can lessen any individual sentence.

Enhanced Deterrence

16 recent studies, inclusive of their defenses, find for death penalty deterrence.

A surprise? No.

Life is preferred over death. Death is feared more than life.

Some believe that all studies with contrary findings negate those 16 studies. They don't. Studies which don't find for deterrence don't say no one is deterred, but that they couldn't measure those deterred.

What prospect of a negative outcome doesn't deter some? There isn't one . . . although committed anti death penalty folk may say the death penalty is the only one.

However, the premier anti death penalty scholar accepts it as a given that the death penalty is a deterrent, but does not believe it to be a greater deterrent than a life sentence. Yet, the evidence is compelling and un refuted that death is feared more than life.

Enhanced Fear

Some death penalty opponents argue against death penalty deterrence, stating that it's a harsher penalty to be locked up without any possibility of getting out.

Reality paints a very different picture.

What percentage of capital murderers seek a plea bargain to a death sentence? Zero or close to it. They prefer long term imprisonment.

What percentage of convicted capital murderers argue for execution in the penalty phase of their capital trial? Zero or close to it. They prefer long term imprisonment.

What percentage of death row inmates waive their appeals and speed up the execution process? Nearly zero. They prefer long term imprisonment.

This is not, even remotely, in dispute.

What of that more rational group, the potential murderers who choose not to murder, is it likely that they, like most of us, fear death more than life?

Life is preferred over death. Death is feared more than life.

Furthermore, history tells us that lifers have many ways to get out: Pardon, commutation, escape, clerical error, change in the law, etc.

In choosing to end the death penalty, or in choosing not implement it, some have chosen to spare murderers at the cost of sacrificing more innocent lives.

Furthermore, possibly we have sentenced 25 actually innocent people to death since 1973, or 0.3% of those so sentenced. Those have all been released upon post conviction review. The anti death penalty claims, that the numbers are significantly higher, are a fraud, easily discoverable by fact checking.

The innocents deception of death penalty opponents has been getting exposure for many years. Even the behemoth of anti death penalty newspapers, The New York Times, has recognized that deception.

To be sure, 30 or 40 categorically innocent people have been released from death row . . . (1) This when death penalty opponents were claiming the release of 119 "innocents" from death row. Death penalty opponents never required actual innocence in order for cases to be added to their "exonerated" or "innocents" list. They simply invented their own definitions for exonerated and innocent and deceptively shoe horned large numbers of inmates into those definitions - something easily discovered with fact checking.

There is no proof of an innocent executed in the US, at least since 1900.

If we accept that the best predictor of future performance is past performance, we can, reasonably, conclude that the DNA cases will be excluded prior to trial, and that for the next 8000 death sentences, that we will experience a 99.8% accuracy rate in actual guilt convictions. This improved accuracy rate does not include the many additional safeguards that have been added to the system, over and above DNA testing.

Of all the government programs in the world, that put innocents at risk, is there one with a safer record and with greater protections than the US death penalty?

Unlikely.

Full report -All Innocence Issues: The Death Penalty, upon request.

Full report - The Death Penalty as a Deterrent, upon request

(1) The Death of Innocents: A Reasonable Doubt,
New York Times Book Review, p 29, 1/23/05, Adam Liptak,
national legal correspondent for The NY Times

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Pro death penalty sites

<http://homicidesurvivors.com/categories/Dudley%20Sharp%20-%20Justice%20Matters.aspx>

www.dpinfo.comwww.cjlf.org/deathpenalty/DPinformation.htm

www.clarkprosecutor.org/html/links/dplinks.htm

www.coastda.com/archives.html

www.lexingtonprosecutor.com/death_penalty_debate.htm

www.prodeathpenalty.com

<http://yesdeathpenalty.googlepages.com/home2> (Sweden) www.wesleylowe.com/cp.html

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From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:31 AM
To: Tom Wright; Jane Pierson
Subject: New Jersey's bad example

Subject: Gov. O'Malley and Maryland's Majority Report, against the death penalty, make some of the same errors found in the New Jersey Study.

To: Maryland Legislature, Prosecutors and media throughout the region

From: Dudley Sharp, contact info below

New Jersey DEAD WRONG: Abolishes Death Penalty
by Dudley Sharp, Justice Matters, contact info below

from <http://www.hallnj.org/cm/listing.jsp?cId=3>

Summary

The New Jersey Death Penalty Commission made significant errors within their findings. The evidence, contrary to the Commissions findings, was so easy to obtain that it appears either willful ignorance or deception guided their report.

A brief review.

FORMAT: Below, are the 7 points made within the New Jersey Death Penalty Study Commission Report, January, 2007. The RUBUTTAL presents the obvious points avoided by the Commission and discussed by this author, a death penalty expert.

I was invited to be a presenter, before the NJDPSC, but my time didn't fit their schedule.

1) There is no compelling evidence that the New Jersey death penalty rationally serves a legitimate penological intent.

REBUTTAL:

- The reason that 81% of Americans found that Timothy McVeigh should be executed was justice - the most profound concept in criminal justice, as in many other aspects of life. It is the same reason that New Jersey citizens, 12 jurors, put all those on death row.

- Although the Commission and the NJ Supreme Court both attempt to discount deterrence, logically, they cannot.

First, all prospects for a negative outcome deter some. This is not, logically or historically rebutted. It cannot be. Secondly, those studies which don't find for deterrence, do not say that it doesn't exist, only that their study didn't find it. Those studies which find for deterrence did. 16 recent studies do.

- The Commission had ample opportunity and, more importantly, the responsibility to read and contact the authors of those many studies which have, recently, found for deterrence. There seems to be no evidence that they did so. On such an important factor as saving innocent lives, why didn't they? The testimony before the Commission, critical of those studies, would not withstand a review by the authors of those studies. That should be an important issue that the Commission should have investigated, but did not.

- **LIFE WITHOU PAROLE:** The Commission considered the risk of innocents executed and concluded that it wasn't worth the risk and that a life sentence would serve sufficiently without that risk to innocents.

Again, the Commission avoided both fact and reason. The risk to innocents is greater with a life sentence than with the death penalty.

First, we all know that living murderers, in prison, after escape or after improper release, are much more likely to harm and murder, again, than are executed murderers - an obvious truism ignored by the Commission.

Secondly, no knowledgeable and honest party questions that the death penalty has the most extensive due process protections in US criminal law. Therefore, it is logically conclusive, that actual innocents are more likely to be sentenced to life imprisonment and more likely to die in prison serving under that sentence, that it is that an actual innocent will be executed.

Thirdly, there has been a recent explosion of studies finding for death penalty deterrence. The criticism of those studies has, itself, been rebutted.

- Therefore, in choosing a life without parole and calling for the end of the death penalty, the Commission has made the choice to put more innocents at risk - the opposite of their stated rationale.

2) The costs of the death penalty are greater than the costs of life in prison without parole, but it is not possible to measure these costs with any degree of precision.

REBUTTAL:

- The NJ legislature's own cost review found that the cost differential was indeterminate. However, based upon their exclusions, LWOP may very well be more expensive.

- For the amount of time and resources allegedly expended by the Commission, this section of their review was unconscionable in its lack of responsibility to the Commission's directive.

- The Commission concludes that the current system in New Jersey is very expensive, without noting the obvious ways in which those issues can be addressed to lessen those costs. Why?

One example, they find that proportionality review cost \$93, 000 per case. Why didn't the Commission recommend doing away with proportionality review? There is no reason, legally, to have it and it has been a disaster, cost wise, with no benefit.

Secondly, the Commission states: "Nevertheless, consistent with the Commission's findings, recent studies in states such as Tennessee, Kansas, Indiana, Florida and North Carolina have all concluded that the costs associated with death penalty cases are significantly higher than those associated with life without parole cases. These studies can be accessed through the Death Penalty Information Center." (Report, page 33).

On many topics the Death Penalty Information Center has been one of the most deceptive or one sided anti death penalty groups in the country. While it is not surprising that the Commission would give them as a reference, multiple times, it doesn't speak well of the Commission.

Did the Commission read any of the studies referenced by the DPIC? It appears doubtful, or the Commission would not have referenced them.

For example, let's look at the North Carolina (Duke University) study. That cost study compared the cost of only a twenty year "life sentence" to the death penalty. Based upon that study, a true life without parole sentence would be more costly than the death penalty. Somehow the Commission missed that rather important fact.

These types of irresponsible and misleading references by the Commission do nothing to inspire any confidence in their findings, but do reinforce the opinion that their conclusions were predetermined.

Please see "Cost Comparisons: Death Penalty Cases Vs Equivalent Life Sentence Cases", to follow.

3) There is increasing evidence that the death penalty is inconsistent with evolving standards of decency.

REBUTTAL:

The Commission uses several references to prove their point. None of them succeeded.

- The first was based upon polling in New Jersey. The data showed strong support (78%) for executions in NJ, except when asking those polled to choose between a life sentence or a death sentence, for which life gets greater support. The major problem with this long standing and misleading polling question is that it has nothing to do with the legal reality of sentencing. Secondly, that poll shows broad support for BOTH sanctions, not a call to abandon either. The Commission, somehow, overlooked that obvious point.

Jurors have the choice of both sentences in states with the death penalty and life without parole. Therefore, a proper polling question for NJ would be,

- A) should we eliminate the death penalty and ONLY have life without parole?
- B) should we give jurors the OPTION of choosing life or death in capital murder cases?

Based upon other polls, I suspect B would be the resounding winner of this poll in NJ.

We know support is 78% in NJ, for crimes similar to those on NJ death row.

Secondly, the Commissions polling speaker avoided the most obvious and reliable polling question on this topic - asking about the punishment for a specific crime, just as jurors have to decide.

NOTE: 78% of NJ citizens support the death penalty for crimes such as those on NJ's death row. (Dec., 2007)

81% of Americans supported the execution of Timothy McVeigh. 85% of Connecticut citizens polled supported the execution of serial rapist/murderer Michael Ross.

Thirdly, poll New Jersey citizens with the following questions. Is life without parole or the death penalty the most appropriate punishment for those who rape and murder children? Or should NJ remove the death penalty as a jury option for those who rape and murder children?

- Two religious speakers spoke against execution. Both are easily rebutted by religious scholars holding different views.

- Another alleged example of this evolving standard is based upon the fact there has been a reduction in death sentences. Such reduction is easily explained by a number of factors, other than some imagined "evolving standard of decency".

Murders have dropped some 40%, capital murders have likely dropped by even a greater number, based upon other factors. This, by itself, explains the overwhelming percentage of the drop in death sentences.

In addition, many prosecutors, such as those in NJ, know that their courts will not allow executions, leading to prosecutorial frustration as a contributing factor in any reduction - not

an evolving standard of decency, but an evolving and increasing frustration.

Please review: "Why the reduction in death sentences?", to follow.

4) The available data do not support a finding of invidious racial bias in the application of the death penalty in New Jersey.

CLARIFICATION:

In fact, there is no data to support any racial bias, invidious or otherwise. The Commission must have read the series of NJ studies.

5) Abolition of the death penalty will eliminate the risk of disproportionality in capital sentencing.

REBUTTAL:

Yes, Commission, and the abolition of all criminal sentences will eliminate the risk of disproportionality in all sentences, as well. This is hardly a rational reason to get rid of any sentence. Get rid of the expensive and unnecessary proportionality review.

6) The penological interest in executing a small number of persons guilty of murder is not sufficiently compelling to justify the risk of making an irreversible error.

REBUTTAL:

- The risk to innocents is greater with life without parole than with the death penalty. See (1), above LIFE WITHOUT PAROLE.

7) The alternative of Life imprisonment in a maximum security institution without the possibility of parole would sufficiently ensure public safety and address other legitimate social and penological interests, including the interests of the families of murder victims.

REBUTTAL:

This Commission statement is quite simply, false.

- Life imprisonment puts more innocents at risk than does the death penalty.

- Justice, just punishment, retribution and/or saving innocent lives, among others, are all legitimate social and penological interests all served by the death penalty.

- 81% of Americans supported the execution of Timothy McVeigh. 85% of Connecticut citizens polled supported the execution of serial, rapist/murderer Michael Ross.

The overwhelming majority of those polled did not have family members murdered.

Is the Commission trying to tell us that a poll of NJ murder victim survivors would show a majority opposed to the death penalty? Of course not, that would be as absurd as the Commissions conclusions in this section.

Conclusion:

Almost without exception, The Commission accepted the standard anti death penalty position, without presenting the easily accessible rebuttal to that position.

Enough said.

NJ Death Penalty Study Commission

It is alleged that the Commission had fair hearings, with both sides adequately presented.

Alleged fair hearings mean nothing, if decisions are predetermined, as this one was.

11 of the 13 committee members were either known or leaning anti death penalty. The contempt for and discounting of pro death penalty positions in both the hearings and final report confirm that.

All the prosecutors on the Commission were up for reappointment - by the staunchly anti death penalty Governor. Would any of them sacrifice their livelihood to fight for the death penalty? Of course not and they did not.

One committee member - one - was confirmable as pro death penalty.

Most, if not all, of Committee Chairman Rev. Howard's previous affiliations were anti death penalty.

Rev. Howard's fairness is best shown by the Commission's final report, which was laughable in its exclusion of pro death penalty positions, positions which would have either overwhelmed or neutralized the anti death penalty, predetermined conclusions of the panel, had those pro death penalty positions been given a fair showing in that report - which they weren't.

The Commission hearings and final report were, as all show trials, a farce.

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Mr. Sharp has appeared on ABC, BBC, CBS, CNN, C-SPAN, FOX, NBC, NPR, PBS , VOA and many other TV and radio networks, on such programs as Nightline, The News Hour with Jim Lehrer, The O'Reilly Factor, etc., has been quoted in newspapers throughout the world and is a published author.

A former opponent of capital punishment, he has written and granted interviews about, testified on and debated the subject of the death penalty, extensively and internationally.

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From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:30 AM
To: Tom Wright; Jane Pierson
Subject: Death Penalty and Deterrence: Let's be clear

Death Penalty and Deterrence: Let's be clear
 by Dudley Sharp, Justice Matters, 0104

In their story, "States With No Death Penalty Share Lower Homicide Rates", The New York Times did their best to illustrate that the death penalty was not a deterrent, by showing that the average murder rate in death penalty states was higher than the average rate in non death penalty states and, it is. (1)

What the Times failed to observe is that their own study confirmed that you can't simply compare those averages to make that determination regarding deterrence.

As one observer stated: "The Times story does nothing more than repeat the dumbest of all dumb mistakes — taking the murder rate in a traditionally high-homicide state with capital punishment (like Texas) and comparing it to a traditionally low-homicide state with no death penalty (like North Dakota) and concluding that the death penalty doesn't work at all. Even this comparison doesn't work so well. The Times own graph shows Texas, where murder rates were 40 percent above Michigan's in 1991, has now fallen below Michigan . . .". (2)

Within the Times article, Michigan Governor John Engler states, "I think Michigan made a wise decision 150 years ago," referring to the state's abolition of the death penalty in 1846. "We're pretty proud of the fact that we don't have the death penalty." (3)

Even though easily observed on the Times' own graphics, they failed to mention the obvious. Michigan's murder rate is near or above that of 31 of the US's 38 death penalty states. And then, it should be recognized that Washington, DC (not found within the Times study) and Detroit, Michigan, two non death penalty jurisdictions, have been perennial leaders in murder and violent crime rates for the past 30 years. Delaware, a jurisdiction similar in size to them, leads the nation in executions per murder, but has significantly lower rates of murders and violent crime than do either DC or Detroit, during that same period.

Obviously, the Times study and any other simple comparison of jurisdictions with and without the death penalty, means little, with regard to deterrence.

Also revealed within the Times study, but not pointed out by them,; "One-third of the nation's executions take place in Texas—and the steepest decline in homicides has occurred in Texas, Oklahoma, Louisiana and Arkansas, which together account for nearly half the nation's executions." (4)

And, the Times also failed to mention that the major US jurisdiction with the most executions is Harris County (Houston, Texas), which has seen a 73% decrease in murder rates since resuming executions in 1982 -- possibly the largest reduction for a major metropolitan area since that time.

Also omitted from the Times review, although they had the data, is that during a virtual cessation of executions, from 1966-1980, that murders more than doubled in the US. Any other rise and fall in murders, after that time, has been only a fraction of that change, indicating a strong and direct correlation between the lack of executions and the dramatic increase in murders, if that is specifically what you are looking for.

If deterrence was measured by direct correlation's between execution, or the lack thereof, and murder rates, as implied by the Times article, and as wrongly assumed by those blindly accepting that model, then there would be no debate, only more confusion. Which may have been the Times' goal.

Let's take a look at the science.

Some non death penalty jurisdictions, such as South Africa and Mexico lead the world in murder and violent crime rates. But then some non death penalty jurisdictions, such as Sweden, have quite low rates. Then there are such death penalty jurisdictions as Japan and Singapore which have low rates of such crime. But then other death penalty jurisdictions, such as Rwanda and Louisiana, that have high rates.

To which an astute observer will respond: But socially, culturally, geographically, legally, historically and many other ways, all of those jurisdictions are very different. Exactly, a simple comparison of only execution rates and murder rates cannot tell the tale of deterrence. And within the US, between states, there exist many variables which will effect the rates of homicides.

See REVIEW, below

And, as so well illustrated by the Times graphics, a non death penalty state, such as Michigan has high murder rates and another non death penalty state, such as North Dakota, has low murder rates and then there are death penalty states, such as Louisiana, with high murder rates and death penalty states, such South Dakota, with low rates. Apparently, unbeknownst to the Times, but quite obvious to any neutral observer, there are other factors at play here, not just the presence or absence of the death penalty. Most thinking folks already knew that.

As Economics Professor Ehrlich stated in the Times piece and, as accepted by all knowledgeable parties, there are many factors involved in such evaluations. That is why there is a wide variation of crime rates both within and between some death penalty and non death penalty jurisdictions, and small variations within and between others. Any direct comparison of only execution rates and only murder rates, to determine deterrence, would reflect either ignorance or deception.

Ehrlich called the Times study "a throwback to the vintage 1960s statistical analyses done by criminologists who compared murder rates in neighboring states where capital punishment was either legal or illegal." "The statistics involved in such comparisons have long been recognized as devoid of scientific merit." He called the Times story a "one sided affair" devoid of merit. Most interesting is that Ehrlich was interviewed by the Time's writer, Fessenden, who asked Ehrlich to comment on the results before the story was published. Somehow Ehrlich's overwhelming criticisms were left out of the article.

Ehrlich also referred Fessenden to some professors who produced the recently released Emory study. Emory Economics department head, Prof. Deshbakhsh "says he was contacted by Fessenden, and he indicated to the Times reporter that the study suggested a very strong deterrent effect of capital punishment." Somehow, Fessenden's left that out of the Times story, as well. (5).

There is a constant within all jurisdictions -- negative consequences will always have an effect on behavior.

Maybe the Times will be a bit more thoughtful, next time.

REVIEW

"The List: Murder Capitals of the World", 09/08, Foreign Policy Magazine
Capital punishment (cp) or not (ncp)
murder rates/100,000 population

4 out of the top 5 do not have the death penalty

1. Caracas (ncp), Venezuela 130-160
Bad policing.
2. New Orleans (cp), La, USA 69-95
Variable because of different counts in surging population. Drug related.
Nos 2 & 3 in US, Detroit (ncp), 46 and Baltimore (cp), 45.
3. Cape Town (ncp), South Africa 62
Most crimes with people who know each other.
4. Port Mores (ncp), Papua New Guinea 54
Chinese gangs, corrupt policing
5. Moscow (ncp), Russia 9.6
various

Of the Top 10 Countries With Lowest Murder Rates (1), 7 have the death penalty

Of the Top 10 Countries With Highest Murder Rates (2), 5 have the death penalty

Top 10 Countries With Lowest Murder Rates

Iceland 0.00 ncp
Senegal 0.33 ncp
Burkina Faso 0.38 cp
Cameroon 0.38 cp
Finland 0.71 ncp
Gambia 0.71 cp
Mali 0.71 cp
Saudi Arabia 0.71 cp
Mauritania 0.76 cp
Oman cp

Top 10 Countries With Highest Murder Rates

Honduras 154.02 ncp
South Africa 121.91 ncp
Swaziland 93.32 cp
Colombia 69.98 ncp
Lesotho 50.41 cp
Rwanda 45.08 ncp
Jamaica 37.21 cp
El. Salvador 36.88 cp
Venezuela 33.20 ncp
Bolivia 31.98 cp

(1) <http://www.mapsofworld.com/world-top-ten/countries-with-lowest-murder-rates.html> no date

(2) <http://www.mapsofworld.com/world-top-ten/countries-with-highest-murder-rates.html> no date

FOOTNOTES

- 1) "States With No Death Penalty Share Lower Homicide Rates", The New York Times 9/22/00 located at [www \(dot\) nytimes.com/2000/09/22/national/22STUD.html](http://www.nytimes.com/2000/09/22/national/22STUD.html) and [www \(dot\) nytimes.com/2000/09/22/national/22DEAT.html](http://www.nytimes.com/2000/09/22/national/22DEAT.html)
- 2) "Don't Know Much About Calculus: The (New York) Times flunks high-school math in death-penalty piece", William Tucker, National Review, 9/22/00, located

at [www \(dot\) nationalreview.com/comment/comment092200c.shtml](http://www.nationalreview.com/comment/comment092200c.shtml)

3) *ibid*, see footnote 11

4) "The Death Penalty Saves Lives", AIM Report, August 2000, located at [www \(dot\) aim.org/publications/aim_report/2000/o8a.html](http://www.aim.org/publications/aim_report/2000/o8a.html)

5) "NEW YORK TIMES UNDER FIRE AGAIN", Accuracy in Media, 10/16/00, go to [www \(dot\) aim.org/](http://www.aim.org/)

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Mr. Sharp has appeared on ABC, BBC, CBS, CNN, C-SPAN, FOX, NBC, NPR, PBS , VOA and many other TV and radio networks, on such programs as Nightline, The News Hour with Jim Lehrer, The O'Reilly Factor, etc., has been quoted in newspapers throughout the world and is a published author.

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Pro death penalty sites

homicidesurvivors.com/categories/Dudley%20Sharp%20-%20Justice%20Matters.aspx

www.dpinfo.com

www.cjlf.org/deathpenalty/DPinformation.htm

www.clarkprosecutor.org/html/links/dplinks.htm

www.coastda.com/archives.html

www.lexingtonprosecutor.com/death_penalty_debate.htm

www.prodeathpenalty.com

yesdeathpenalty.googlepages.com/home2 (Sweden)

www.wesleylowe.com/cp.html

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From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:29 AM
To: Jane Pierson
Subject: the 130 "innocents" fraud death penalty

from dudley sharp

Re: fact checking issues, on innocence and the death penalty.

It is very important to take note that the 130 exonerated from death row is a blatant scam, easily uncovered by fact checking.

The Death Penalty Information Center has been responsible for some of the most serious deceptions by the anti death penalty side, inclusive of this 130 exonerated and innocence scam.

Dieter and DPIC have produced the claims regarding the exonerated and innocents released from death row list. The scam is that DPIC just decided to redefine what exonerated and innocence mean according to their own perverse definitions.

Richard Dieter, head of the Death Penalty Information Center (DPIC): defining what "exonerated" or "innocent" means.

". . . (DPIC) makes no distinction between legal and factual innocence. " 'They're innocent in the eyes of the law,' Dieter says. 'That's the only objective standard we have.' "

That is untrue, of course. We are all aware of the differences between legal guilt and actual guilt and legal innocence (not guilty) and actual innocence, just as the courts are.

Furthermore, there is no finding of actual innocence, but it is "not guilty". Dieter knows that we are all speaking of actual innocence, those cases that have no connection to the murder(s). He takes advantage of that by redefining exonerated and innocence.

Dieter "clarifies" the three ways that former death row inmates get onto their "exonerated" by "innocence" list.

"A defendant whose conviction is overturned by a judge must be further exonerated in one of three ways: he must be acquitted at a new trial, or the prosecutor must drop the charges against him, or a governor must grant an absolute pardon."

None establishes actual innocence.

DPIC has " . . . included supposedly innocent defendants who were still culpable as accomplices to the actual triggerman."

DPIC: "There may be guilty persons among the innocents, but that includes all of us."

Good grief. DPIC wishes to apply collective guilt of capital murder to all of us.

Dieter states: "I don't think anybody can know about a person's absolute innocence." (Green). Dieter said he could not pinpoint how many are "actually innocent" -- only the defendants themselves truly know that, he said." (Erickson)

Or Dieter won't assert actual innocence in 1, 102 or 350 cases. He doesn't want to clarify a real number with proof of actual innocence, that would blow his entire deception.

Or, Dieter declare all innocent: "If you are not proven guilty in a court of law, you're innocent." (Green)

Dieter would call Hitler and Stalin innocent. Those are his "standards".

And that is the credibility of the DPIC.

For fact checking.

1. "Case Histories: A Review of 24 Individuals Released from Death Row", Florida Commission on Capital Cases, 6/20/02, Revised 9/10/02 at <http://www.floridacapitalcases.state.fl.us/Publications/innocentsproject.pdf>

83% error rate in "innocent" claims.

2. "Is 'the innocence list' an appropriate name?", 1/19/03
FRANK GREEN, TIMES-DISPATCH STAFF WRITER
<http://www.stopcapitalpunishment.org/coverage/106.html>

Dieter admits they don't discern between legal innocence and actual innocence. One of Dieter's funnier quotes; "The prosecutor, perhaps, or Dudley Sharp, perhaps, thinks they're still guilty because there was evidence of their guilt, but that's a subjective judgment." Yep, "EVIDENCE OF GUILT", can't you see why Dieter would think they were innocent? And that's how the DPIC works.

3. The Death of Innocents: A Reasonable Doubt,
New York Times Book Review, p 29, 1/23/05, Adam Liptak,
national legal correspondent for The NY Times

"To be sure, 30 or 40 categorically innocent people have been released from death row . . .".

That is out of the DPIC claimed 119 "exonerated", at that time, for a 75% error rate.

NOTE: It's hard to understand how an absolute can have a differential of 33%. I suggest the "to be sure" is, now, closer to 25.

4. CRITIQUE OF DPIC LIST ("INNOCENCE:FREED FROM DEATH ROW"), Ward Campbell,
<http://www.prodeathpenalty.com/DPIC.htm>

5. "The Death Penalty Debate in Illinois", JJKinsella, 6/2000,
<http://www.dcba.org/brief/junissue/2000/arto10600.htm>

6. THE DEATH PENALTY - ALL INNOCENCE ISSUES, Dudley Sharp
<http://homicidesurvivors.com/2006/03/20/all-innocence-issues--the-death-penalty.aspx>

Origins of "innocence" fraud, and review of many innocence issues

7. "Bad List", Ramesh Ponnuru, National Review, 9/16/02
www.nationalreview.com/advance/advance091602.asp#title5

How bad is DPIC?

8. "Not so Innocent", By Ramesh Ponnuru, National Review, 10/1/02
www.nationalreview.com/ponnuru/ponnuru100102.asp

DPIC from bad to worse.

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