

HB 9

SUPPORT

(FILE 3)

From: Rep. Lindsey Holmes
Sent: Monday, February 23, 2009 10:06 AM
To: Jane Pierson
Subject: FW: Death Penalty

-----Original Message-----

From: James McCarty [mailto:James_McCarty@msn.com]
Sent: Friday, February 20, 2009 1:40 PM
To: Rep. Lindsey Holmes
Subject: Death Penalty

FYI I am pro death penalty and have researched info on it in the past and what you have in your article is not always true it depends upon the age of the criminal when they are sentenced. I do whole heartily that any death penalty passed should be very limited in application. Such as killing multiple people, killers for hire and those who hired them, repeat murderers. And if it were up to me second offence child molesters would be executed.

D. THE COST OF LIFE WITHOUT PAROLE VS THE DEATH PENALTY

Many opponents present, as fact, that the cost of the death penalty is so expensive (at least \$2 million per case?), that we must choose life without parole ("LWOP") at a cost of \$1 million for 50 years. Predictably, these pronouncements may be entirely false. JFA estimates that LWOP cases will cost \$1.2 million - \$3.6 million more than equivalent death penalty cases.

Cost of Life Without Parole: Cases Equivalent To Death Penalty Cases	Cost of Death
1. \$34,200/year (1) for 50 years (2), at (1) for 6 years (5), at a 2% (3) annual cost increase, plus annual cost increase, plus \$75,000 (4) for trial & appeals = \$3.01 million	\$60,000/year a 2% (3)
(4) for trial & appeals = \$1.88 million	\$1.5 million
2. Same, except 3% (3) = \$4.04 million	Same, except
3% (3) = \$1.89 million	
3. Same, except 4% (3) = \$5.53 million	Same, except
4% (3) = \$1.91 million	

The full article is at: <http://www.prodeathpenalty.com/DP.html>
There are also other articles pro death penalty.

Have a wonderful day and hang in there,
Jim

Dana Strommen

From: irl@gci.net on behalf of Irl Stambaugh [irl@gci.net]
Sent: Sunday, March 08, 2009 6:08 AM
To: Rep. Jay Ramras
Subject: victim rights

March 8, 2009

Representative Jay Ramras

Dear Representative Ramras,

Attached you will find a letter to the editor that was submitted by the Stambaugh family in regards to the death penalty, the article was printed as a compass piece in the AND on 3-8-09. We fully understand that there are strong opinions on all sides of this issue and would never assume that we would change your beliefs (or want to); however I would hope you are able to review the attached with an eye towards possibly minimizing some of the victim impact.

Our sister Jody Stambaugh was raped and murdered in Fairbanks, Alaska at the University of Alaska on December 10, 1972, she was 18 years old and attending her first year at the college. Our primary reason for writing after so many years is Walunga's most recent Parole application in 2008.

Alan Walunga was arrested and tried for the rape /murder, and in addition the vicious assault on Jody's roommate. During the sentencing the report stated that Walunga as a juvenile had a troubled childhood with a history of sexual abuse of minors in his community, then at Mt. Edgecombe School, and then in Fairbanks at Ft. Wainright, finally ending with the murder at UAF. This raises the first question that has been asked before but never adequately addressed.

Just because they are juveniles in most cases, why are students not pre-screened with a background check before they are allowed to reside in a co-ed dorm, don't the other students deserve that protection?

Since his sentencing Walunga has applied for probation / parole on 6 different occasions, even though he was sentenced to a life sentence with a 15 year concurrent time period. The first time he applied was in 1987 he was told at that time he would not be eligible to apply in the future. Then in 2005 the board reconsidered and stated he would again be eligible to apply with no notice to victims and families of the change. As, I'm sure you can imagine our shock in 2008 when Walunga was again allowed to apply. (His request was denied).

Why was he allowed to apply when he had been sentenced to life?

Why was the rule changed in 2005?

Why were victim families not notified that this was the new policy?

As we stated in the attached, please don't get us wrong we are not blaming corrections or their probation/parole section; they have done an amazing job under difficult circumstances in keeping a violent sexual predator in jail where he belongs. What we are attempting to address are some of the policies, regulations and statutes that govern how the entire process is administered and to bring some

additional awareness to some of the problems in the hope that they can be improved.

Our final area of concern is that the hearings are closed to the public. In our opinion if a violent offender is trying to be released into a particular community that community should have a right to know. It is our understanding that this privacy extends to local law enforcement who are not informed, at the very least it would seem prudent to advise, and seek comment from law enforcement within an affected community.

Thank you for your time and consideration, for the past 37 years we have quietly gone about our business dealing with our grief in our own way. We hope by bringing this to your attention some positive changes may be made in the way these matters are handled.

Respectfully Submitted;

Irl Stambaugh

Gary Stambaugh

Cc: corrections, Parole board, victims for justice

The Death Penalty, Justified? Maybe.

Our sister Jody Stambaugh was an 18 year old University of Alaska, Fairbanks student when she was raped and murdered in her dorm room during the early evening hours on December 10, 1972. In addition her roommate who came into the room was also seriously assaulted and may have been killed had it not been for others hearing the assault and coming to her aid. This horrendous crime occurred so many years ago, how could it possibly be relevant in today's discussion on the death penalty. I guess I should start at the beginning.

Jody, a third generation Alaskan was born in Ketchikan, Alaska and raised with her two brothers and parents in Ketchikan and Juneau. Both of our parents were state of Alaska employees who worked for

the state until their retirement. Jody was an exceptional person, always calm, always kind, and always considerate of others, a good student and a good person who was loved by all she came into contact with. After graduation from high school in Juneau she decided to attend the University of Alaska in Fairbanks and was murdered during her first year at the school.

Allen Walunga spent his early years in a small community in the interior of Alaska. At an early age he became a violent sexual predator when he sexually assaulted several underage girls. (He later admitted to sexually assaulting several young boys in the community during this same time period). So, what did the powers to be do to resolve the issue, they shipped him off to school at Mt. Edgecombe in Sitka, Alaska.

While attending school at Mount Edgecombe he once again exhibited his sexual predatory behavior when he obtained a gas soaked rag and held it to the mouth and nose of an intoxicated female student until she went limp, he thought he had killed her so he ran away. After that incident he moved to Fairbanks and attended high school.

During his time in Fairbanks, Alaska he was charged with pedophilia and child molestation of a female dependant of an officer from Ft. Wainright, Alaska. He was placed on probation for this offense and was still on probation when he killed Jody.

He then went to the University of Alaska, Fairbanks where no one inquired as to his background before they placed him into a co-ed dorm. (Yeah, I know juvenile records are confidential even when it involves a violent sexual predator being in contact with an entire campus of potential victims).

On December 10, 1972 our lives were changed forever, Jody was murdered, another wonderful young lady was assaulted, Walunga was taken into custody. Then the nightmare started.

During Walunga's trial and sentencing before Judge Van Hoomissen in Fairbanks the following facts were entered into the record.

Walunga was found guilty of murder in the 1st degree and assault with the intent to kill.

The judge found that Walunga "was an extremely dangerous offender who presented a clear and present danger of killing another person if ever released from prison".

Even the defense expert stated in his report: Defendant was treated for psychiatric problems at an early age and was obsessed with the likelihood that he would do an impulsive criminal, and perhaps murderous act to another human being.

In a May 1973 psychiatric report the Doctor states that the "individual be committed to a mental institution for the continuous treatment of his schizophrenia condition. I do not believe that unless some new or revolutionary treatment of schizophrenia becomes known that he should be permitted to walk the streets in a free society".

The other psychologists and psychiatrists that evaluated Walunga formulated a less favorable opinion, as well as Judge Van Hoomissen who all agreed that Walunga never again should be free in our community.

District Attorney Clayton at sentencing took into account the above information and recommended the court impose a sentence that would assure he (Walunga) never again would walk the streets, due to his anti-social personality disorder, being extremely dangerous,

obsessed with killing, is fatality bent on destruction, and is schizophrenic.

The probation officer stated in Part:

If we had a death penalty in this state, I would recommend whatever that death penalty might be. This is a heinous crime and I agree that the chances for rehabilitation are poor.

Judge Van Hoomissen goes on to state in part: The evidence is replete with testimony concerning his obsession with killing. The public does need protection. This is probably the most vicious crime that I have had contact with. If we were to release him and say, "let's watch to see if he will do it again". I don't think we can afford to do that.

Judge Van Hoomissen then sentenced Walunga using the following language:

The judge imposed a life sentence on the murder with a concurrent 15 years on the assault with intent to kill count,

The judge concluded by stating:

It is further the order of the court that should the defendant be considered for parole by the parole board, they should have competent legal evidence available to them from competent experts that there is a reasonable probability that Allen Riley Walunga will not commit an offense involving a crime of violence against another human being.

At that time our family felt that justice had been done and Walunga would remain in jail for the remainder of his life. We continued with our lives and through time minimized our grief. Our father had a serious heart attack that I will always, partially attribute to the grief and sorrow he lived with after our sister's death.

Then in September of 1987 we were shocked to find out that Walunga was able to ask for a parole hearing. We learned at that time that by statute he was allowed to apply and that each time he requested a parole hearing the victims are notified and allowed to respond in person or in writing.

So, here we go again the entire senseless murderous incident being rehashed in a hearing, as a family, as individuals, and as victims we responded to Walunga's request and he was denied.

1989 – Requested commutation of sentence, denied.

1991- Tested the waters and applied for a parole hearing, waived hearing.

1992- Applied for a parole hearing, denied.

1997- Tested the waters and applied for a parole hearing, waived hearing.

1998-Applied for a parole hearing, denied, with the additional statement from the parole board that the release of defendant on discretionary parole wholly was out of the question and that the board would never again consider another parole application.

The family and victims breathed another sigh of relief that it was finally over and Walunga would remain in jail.

Then unknown to any family member or victim the new parole board in 2005 decided that it would consider discretionary parole applications every ten years despite what any prior board had decided,

and contrary to what Judge Van Hoomissen recommended with good reason in his sentencing report.

2008-Applied for a parole hearing, hearing held in November 2008, denied

It is interesting to note at this particular hearing Walunga was in Arizona corrections and was being represented by a high profile Anchorage attorney. Walunga entered into the record a psychiatric report he had paid for but we were not entitled to see because we were told that it was a medical record. In addition Walunga provided the board and victims with a parole request report that says in part:

He is sorry for the murder, However he fails to mention that there was a second victim,

He has found god,

He thinks he will do well on probation unless he is confronted with "his temptation to form adulterous friendships with abnormally large breasted women",

He also fails to mention his previous sexual misconduct,

The state of Alaska had not done a psychiatric report due to the costs involved. The state attorney was not allowed to remain in the room because we were told at the last minute that it was a closed hearing. We were never afforded the opportunity to obtain our own legal counsel.

In addition we learned that all hearings of this nature were closed to the public and only victims were allowed to attend. We also learned that this privacy rule extended to those that should have had a right to know, an example being the local police chief in the community where Walunga wished to reside did not have a right to know that a violent sexual predator may be released into his community.

This is not an attempt to bash the probation/parole department at corrections, through it all, after having to deal with antiquated rules, regulations and statutes they have done a remarkable job in keeping Walunga behind bars where he cannot harm anyone in our communities.

After going through another emotionally grueling hearing Walunga's request was again denied.

If you can, imagine the heartache we have endured over the last 37 years always fearing that this may be the hearing where he gets his way. During that same time period life continues on with our father and mother having passed away, our children have grown but we continue to attend hearings, and as I promised our mother I will continue to attend hearings.

The other victim has raised a family, but continues to attend hearings fearing that Walunga will be released.

Do we think that this will change anyone's mind on the death penalty? Probably not, but we do hope it makes you think.

Do we think my sister would agree with the death penalty, probably not, she was a better person than a lot of us.

Would we agree with the death penalty? In this case with the above set of facts, you bet we do.

Irl Stambaugh

Gary Stambaugh

Arguments for the Death Penalty

02-27-09

Testimony By: Frank L. Girard, M.Sc., 20 Year resident of Wasilla
1245 East Scotwood Drive
Wasilla, Alaska 99654
373-3072

To the members of House Judiciary:

I am for the death penalty for premeditated, first-degree murder--particularly when the victims are women or children. Society must have more compassion for the murdered and their families than for murderers.

Clearly, the efficacy of a punishment for murder is determined by its deterrence. Does the existence of capital punishment deter more than the threat of life in prison? The answer must be yes. In the biological realm, reproduction trumps, directly or indirectly, all other considerations. Those who are more likely to reproduce will have a greater influence over the genetics of oncoming generations than those who are less likely to reproduce. Those who have a greater fear of death, who have better instinctual resources to avoid death-dealing situations, will produce more offspring than those who are less endowed in these areas. Nothing ruins reproductive capability like being dead! Therefore, after countless generations, we all have a death fear hardwired into our nervous systems. The prospect of death has a strong, even painful, emotional gut-wrenching effect. It takes a brave person indeed to act contrarily to this terrible feeling. Since jail time was unknown in prehistory, the prospect of life in prison elicits only an academic, intellectual response--no strong, raw, aversive emotions like the prospect of death does. Therefore the death penalty must have a stronger deterrence than life in prison.

OBJECTIONS:

(A) Death- row inmates claim they were not deterred by the death penalty.

Clearly the inmates were not deterred; otherwise they would not be on death row. The people to ask about the deterrence of capital punishment are those NOT on death row because they were deterred by the specter of the death penalty.

(B) A state without capital punishment may have a murder rate less than another state that has capital punishment.

There is a different population makeup between the two states. Take an extreme example. Assume a hypothetical state with no death penalty and whose population is mostly nuns. The state would be expected to have a lower murder rate than a capital-punishment state made up of the rest of us. A jurisdiction may technically have capital punishment, but if it very rarely, if ever, executes obviously guilty murderers, its death-penalty statute will have little deterrence.

South Africa, where I lived for many years, had capital punishment and a moderately high murder rate. With the advent of black rule, the death penalty was abolished. The murder rate shot up exponentially. Now South Africa has probably the highest murder rate in the world--MUCH higher than that of the United States.

- (C) The death penalty is too expensive because of ceaseless litigation. Therefore it would be cheaper to lock up murderers than to kill them.

Perhaps litigation could be trimmed by legislation or court rulings so that only that which bears directly on the guilt or innocence of the accused is entertained. As life prisoners become geriatric, their health care could eat up any initial financial advantage. States that several decades ago were lavish with life sentences without parole are now realizing this expensive truth. A few prisons have degenerated into nursing homes.

- (D) Everything must be done to avoid executing the innocent. I AGREE!!!

We should pay more to get better public defenders and provide larger allowances for them to gather evidence such as DNA findings, etc. At least in capital cases, we should pay a public defender a handsome bonus if he/she gets an acquittal. (Even if only a long prison term is at issue, a bonus would be less than the cost of imprisonment--about \$40,000 per year.)

In closing, if having capital punishment on the books only saves the life of one potential murder victim, then it's worth it!

F. L. Girard

Wayne Anthony Ross

From: wws@alaskalife.net on behalf of Wev Shea [wws@alaskalife.net]
Sent: Wednesday, February 25, 2009 8:32 AM
To: Wayne Ross Anthony
Subject: Alaska Death Penalty - Wayne: I thought you might find my article of interest. My Best, Wev

Alaska Dispatch

TALK OF THE TUNDRA

Alaska death penalty debate far more complex than meets the eye

Wev Shea

Feb 25, 2009

As the U.S. Attorney for Alaska, I was the first prosecutor to seek the death penalty against two individuals since the passage of statehood.

These two young men executed another young man in a drive-by shooting. They were convicted of murder in state court.

While these two killers were in separate Alaska prisons, they somehow conspired. They devised a plan and instructed others outside prison to build a bomb to murder the key witness against them in the murder case. These individuals built a bomb and mailed it.

The mail bomb was sent to the witness's Post Office box in Chugiak, as directed by the incarcerated murders. The targeted witness, also a young man, was out of state. His parents picked up the mail bomb package and opened it in the kitchen of their home. The father was killed instantly and the mother was severely maimed, with hundreds of wounds to her face and body.

I arrived at their home within a couple hours of the explosion. Body tissue from the father was stuck to everything in the kitchen that hadn't been destroyed by the horrific blast. It was a crime scene you never forget. You play back the horror experienced by the parents upon opening the package meant for their son. I never forgot it.

I sought the death penalty for the two incarcerated murders who had killed and maimed two innocent bystanders in their attempt to kill the son.

Here is a summary of the key facts I remember as defined for the Assistant Attorney General for the Criminal Division, Robert S. Mueller, III [now director of the FBI] and U.S. Attorney General William P. Barr:

- Histories of intimidation and threats going back to school days
- Histories of abuse and misuse of firearms and explosives
- Histories of attempting to intimidate witnesses against them
- Convicted murderers who killed in a vehicle drive-by
- From two separate Alaska prisons, a successful plan to mail a bomb to execute a trial

witness

--From two separate Alaska prisons, instructed and planned with others outside the prisons

--Co-conspirators missed their mail bomb target and killed and maimed innocent bystanders

Attorney General Barr and Assistant Attorney General Mueller demanded I justify in detail why the death penalty should be applicable in this particular case. I personally felt the conduct was so outrageous that the penalty of death was warranted -- not just applicable to the killers.

AAG Mueller and AG Barr ultimately agreed with me after extensive Main Justice review by experts. But they (and rightfully so) attached a caveat: "There will be no compromise or plea deal. The threat of the death penalty must never be used to intimidate the defendant. You, as the United States Attorney for the District of Alaska, have no authority to compromise this case." And, due to the terrorism nature of this case, Main Justice had a key role in all of this.

Despite the forgoing facts, an Alaska U.S. District Court judge held the death penalty was inappropriate for this case. Ultimately, the U.S. Court of Appeals for the Ninth Circuit agreed with the trial court that the death penalty was not an appropriate remedy for the prison felon killers.

I personally believe heinous crimes as described herein, as well as against children, demand the punishment of death. But when I hear the political rhetoric led by conservatives, like me, in Juneau, I wonder if they have any clue as to the uniqueness of Alaska's grave problems in criminal matters statewide. When I hear a pro-life believer like myself "scream" for the death penalty in Alaska, I know the individual is not knowledgeable on the key issues. The fact is this state is very unique. Alaska, like nowhere else in our nation, has a vastly different justice system in the Bush than other parts of the state, like the Railbelt and Southeast.

Here are some of the reasons why we must think hard about whether we want to reinstitute the death penalty in Alaska:

--Our law enforcement in rural Alaska (including state troopers, prosecutors, defense attorneys and judges) is gravely unfunded.

--Rural Alaska is plagued with injustice because of inadequate investigation resources for prosecutors and defendants.

--Inexperienced prosecutors, including district attorneys, are ill-equipped to address death decisions.

--Inexperienced defense lawyers are ill-equipped to protect potential death-penalty defendants.

--We have an inexperienced Attorney General who is more at home in an apple orchard than the courtroom.

--We have opinionated assistant Attorney Generals entrenched in their own death-penalty views.

--We have politically motivated District Attorneys (and an Attorney General) who place the governor's interest over Alaskans' well-being.

--And overall, our Alaska criminal justice system, from investigators to judges to counsel to prisons, is sorely under-funded.

Grandstanding by members of the Legislature on either side of the death penalty debate is a disservice to the public. This is a complex debate that deserves a thorough analysis. Hopefully the Legislature will delve into the complexities before voting.

Wev Shea, a Republican and an attorney admitted in Alaska in 1977, has been an outspoken critic of corruption in Alaska's GOP. He was a U.S. Attorney for Alaska from 1990 to 1993. He was also a deputy prosecuting attorney in Honolulu from 1981 to 1982. Shea joined the U.S. Navy in 1961, serving in combat from 1967 to 1969, with a nuclear delivery certification in A-6 Intruder attack jets.

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Death penalty would end punishment of victim's family

COMPASS: Other points of view

By IRL STAMBAUGH AND GARY STAMBAUGH

(03/07/09 17:29:03)

Our sister Jody Stambaugh was an 18-year-old University of Alaska, Fairbanks student when she was raped and murdered in her dorm room during the early evening hours on Dec. 10, 1972. Her roommate was also seriously assaulted and might have been killed had not others heard the assault and come to her aid.

This horrendous crime occurred so many years ago. How could it possibly be relevant in today's discussion on the death penalty?

We should start at the beginning.

Jody, a third generation Alaskan, was raised with her two brothers in Ketchikan and Juneau. Jody was an exceptional person, always calm, always kind, and always considerate of others. After graduation from high school in Juneau she decided to attend the University of Alaska in Fairbanks.

A known offender

Allen Walunga spent his early years in a small community in Interior Alaska. At an early age he became a violent sexual predator and sexually assaulted several underage girls. (He later admitted to sexually assaulting several young boys in the community during this same time period).

So, what did the powers to be do? They shipped him off to school at Mount Edgecumbe in Sitka, Alaska.

While attending school at Mount Edgecumbe, he obtained a gas soaked rag and held it to the mouth and nose of an intoxicated female student until she went limp. He thought he had killed her so he ran away. After that incident he moved to Fairbanks and attended high school.

During his time in Fairbanks he was charged with pedophilia and child molestation. He was placed on probation.

He then went to the University of Alaska, Fairbanks where no one inquired as to his background before they placed him in a co-ed dorm. (Juvenile records are confidential even when it involves a violent sexual predator being in contact with an entire campus of potential victims).

The nightmare starts

On Dec. 10, 1972, our lives were changed forever. Jody was murdered, another wonderful young lady was assaulted, and Walunga was taken into custody.

Then the nightmare started.

Walunga was found guilty of murder in the 1st degree and assault with the intent to kill.

Judge Van Hoomissen found that Walunga "was an extremely dangerous offender who presented a clear and present danger of killing another person if ever released from prison".

The probation officer stated in part:

If we had a death penalty in this state, I would recommend whatever that death penalty might be. This is a heinous crime and I agree that the chances for rehabilitation are poor."

Judge Van Hoomissen said, "This is probably the most vicious crime that I have had contact with."

He imposed a life sentence on the murder with a concurrent 15 years on the assault with intent to kill count.

At that time our family felt that justice had been done and Walunga would remain in jail for the remainder of his life. We continued with our lives and through time minimized our grief. Our father had a serious heart attack that I will always partially attribute to the grief and sorrow he lived with after our sister's death.

The first parole request

Then in September of 1987 we were shocked to find out that Walunga was able to ask for a parole hearing.

So here we went again. The entire senseless murderous incident was being rehashed in a hearing. As a family, as individuals, and as victims, we responded to Walunga's request and he was denied.

In 1989 he requested commutation of his sentence and was denied.

In 1991 he tested the waters and applied for a parole hearing.

In 1992 he applied for a parole hearing and was denied.

In 1997 he tested the waters and applied for a parole hearing.

In 1998 he applied for a parole hearing and was denied. The parole board said that the release of the defendant on discretionary parole was wholly out of the question and that the board would never again consider another parole application.

The family and victims breathed another sigh of relief that it was finally over and Walunga would remain in jail.

We thought it was over

Then unknown to any family member or victim, the new parole board in 2005 decided that it would consider discretionary parole applications every 10 years, despite what any prior board had decided and contrary to what Judge Van Hoomissen recommended in his sentencing report.

In 2008 Walunga got a parole hearing. It is interesting to note Walunga was being represented by a high-profile Anchorage attorney. Walunga entered into the record a psychiatric report he had paid for. We were not entitled to see it because we were told that it was a medical record.

Sorry?

In addition, Walunga provided the board and victims with a report that says in part he is sorry for the murder (however, he fails to mention that there was a second victim). He says he has found God. He thinks he will do well on probation unless he is confronted with "his temptation to form adulterous friendships with abnormally large breasted women." He also fails to mention his previous sexual misconduct.

This is not an attempt to bash the probation/parole department at corrections. Through it all, after having to deal with antiquated rules, regulations and statutes they have done a remarkable job in keeping Walunga behind bars where he cannot harm anyone in our communities.

After another emotionally grueling hearing for us, Walunga's request was again denied.

37 years of heartache

If you can, imagine the heartache we have endured over the last 37 years, always fearing that this may be the hearing where he gets his way. During that same time period life continues on. Our father and mother have passed away, and our children have grown but we continue to attend hearings. As we promised our mother, we will continue to attend hearings.

The other victim has raised a family, but continues to attend hearings fearing that Walunga will be released.

Do we think that telling our story will change anyone's mind on the death penalty? Probably not, but we do hope it makes you think.

Do we think my sister would agree with the death penalty? Probably not. She was a better person than a lot of us.

Do we agree with the death penalty? In this case with the above set of facts, you bet we do.

Irl Stambaugh is a retired police officer. Gary Stambaugh is a former sergeant-at-arms for the Alaska State Senate. Both are lifelong Alaskans.

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From: Sharpjfa@aol.com
 Sent: Monday, February 23, 2009 9:50 AM
 To: Tom Wright; Jane Pierson
 Subject: The Death Penalty is a Deterrent - 16 Recent Studies

For some of the recent 16 deterrence studies, go to:

<http://www.cjlf.org/deathpenalty/DPDeterrence.htm>

US Senate testimony

http://judiciary.senate.gov/testimony.cfm?id=1745&wit_id=4991

The Death Penalty as a Deterrent - 16 Recent Studies
 Dudley Sharp, Justice Matters, updated 82207

CONTACT information for all of the study authors is within the footnotes

"I oppose the death penalty. " But my results show that the death penalty (deters) — what am I going to do, hide them?" "Science does really draw a conclusion. It did. There is no question about it." "The results are robust, they don't really go away" "The conclusion is there is a deterrent effect."

Prof. Naci Mocan, Economics Chairman, University of Colorado at Denver
 "Studies say death penalty deters crime", ROBERT TANNER, Associated Press, Jun 10, 2007, 2:01 PM ET

(2003) Emory University Economics Department Chairman Hashem Dezhbakhsh and Emory Professors Paul Rubin and Joanna Shepherd state that "our results suggest that capital punishment has a strong deterrent effect. An increase in any of the probabilities -- arrest, sentencing or execution -- tends to reduce the crime rate. In particular, each execution results, on average, in eighteen fewer murders -- with a margin of error of plus or minus 10." (1) Their data base used nationwide data from 3,054 US counties from 1977-1996.

(2003) University of Colorado (Denver) Economics Department Chairman Naci Mocan and Graduate Assistant R. Kaj Gottings found "a statistically significant relationship between executions, pardons and homicide. Specifically each additional execution reduces homicides by 5 to 6, and three additional pardons (commutations) generate 1 to 1.5 additional murders." Their "data set contains detailed information on the entire 6,143 death sentences between 1977 and 1997. (2)

(2001) University of Houston Professors Dale Cloninger and Roberto Marchesini, found that death penalty moratoriums contribute to more homicides. They found: "The (Texas) execution hiatus (in 1996), therefore, appears to have spared few, if any, condemned prisoners while the citizens of Texas experienced a net 90 (to as many as 150) additional innocent lives lost to homicide. Politicians contemplating moratoriums may wish to consider the possibility that a seemingly innocuous moratorium on executions could very well come at a heavy cost." (3)

(2001) SUNY (Buffalo) Professor Liu finds that legalizing the death penalty not only adds capital punishment as a deterrent but also increases the marginal productivity of other deterrence measures in reducing murder rates. "Abolishing the death penalty not only gets rid of a valuable deterrent, it also decreases the deterrent effect of other punishments." "The deterrent effects of the certainty and severity of punishments on murder are greater in retentionist (death penalty) states than in abolition (non death penalty) states." (4)

(2003) Clemson U. Professor Shepherd found that each execution results, on average, in five fewer murders. Longer waits on death row reduce the deterrent effect. Therefore, recent legislation to shorten the time prior to execution should increase deterrence and thus save more innocent lives. Moratoriums and other delays should put more innocents at risk. In addition, capital punishment deters all kinds of murders, including crimes of passion and murders by intimates. Murders of both blacks and whites decrease after executions. (5) NOTE In a later review of individual state data, Shepherd found that for states executing less than once every 27 months, that there was no effect on murders or murders actually rose. Citations to follow.

(2003) FCC economist Dr. Paul Zimmerman finds: "Specifically, it is estimated that each state execution deters somewhere between 3 and 25 murders per year (14 being the average). Assuming that the value of human life is approximately \$5 million (i.e. the average of the range estimates provided by Viscussi (1993)), our estimates imply that society avoids losing approximately \$70 million per year on average at the current rate of execution all else equal." The study used state level data from 1978 to 1997 for all 50 states (excluding Washington D.C.). (6)

(2003) Emory University Economics Department Chairman Hashem Dezhbakhsh and Clemson U. Professor Shepherd found that "The results are boldly clear: executions deter murders and murder rates increase substantially during moratoriums. The results are consistent across before-and-after comparisons and regressions regardless of the data's aggregation level, the time period, or the specific variable to measure executions." (7)

(2005) In a review of Illinois state data, University of Houston Professors Dale Cloninger and Roberto Marchesini found that 150 additional Illinois' citizens died, in a four year period because of Governor Ryan suspended executions and commuted all death sentences. (Applied Economics, forthcoming 2006).

Criticisms rebutted and additional studies

(2006) "... (Donohue and Wolfers' "D&W") criticisms of Zimmerman's analysis are misrepresentative, moot or unsupported in terms of the analyses they perform." "It is shown that Zimmerman's published empirical results, or the conclusions drawn from them, are not in any way refuted by D&W's critique." (pg 3) "This later estimate suggests that each execution deters 14 murders on average..." (pg 7) "It is shown that D&W made a number of serious misinterpretations in their review of Zimmerman's study and

that none of the analyses put forward by D&W (which ostensibly refute Zimmerman's original results and conclusions) hold up under scrutiny. (pg8) "... D&W do not even report Zimmerman's 'preferred' results correctly, and then proceed by carrying on this error throughout the remainder of their critique." (pg8) "Of course, (D&W's) omission tends to create a strong impression that Zimmerman's analysis 'purports to find reliable relationships between executions and homicides', when his actual conclusions regarding the deterrent effect of capital punishment are far more agnostic." (pg10) "... D&W's method of interpreting their results is not consistent with that proscribed by the received econometric literature on randomized testing ...". "As such, D&W's interpretation of their randomized test in itself does not (and cannot) reasonably lead one to conclude that Zimmerman's estimates suggesting a deterrent effect of capital punishment are spurious." (pg12) "... D&W do not appear to have interpreted their randomization test in any meaningful fashion." (pg14) "... the state clustering correction employed by D&W may not be producing statistically meaningful results." (pg16) "And while D&W once lamented that recent econometric studies purporting to demonstrate a deterrent effect of capital punishment yield 'heat rather than light', as shown herein, their criticisms of Zimmerman (2004) tend to yield 'smoke rather than fire'." (pg26)

Zimmerman, Paul R., "On the Uses and 'Abuses' of Empirical Evidence in the Death Penalty Debate" (November 2006). [ssrn\(dot\)com/abstract=948424](http://ssrn(dot)com/abstract=948424)

(2006) "This analysis shows that attempts to make the deterrence effect disappear are ineffective." (p 16)

--- Existence of the death penalty, in law, has a statistically significant impact on reducing murders. (p 23)

--- Execution rates show significant impact in reducing murders. (p 13 & 23)

--- Death row commutations, and other removals, increase murders. (p13 & 23)

--- The criticism of our studies is flawed and does not effect the strength of the measured deterrent effect.

"The Impact of Incentives On Human Behavior: Can we Make It Disappear? The Case of the Death Penalty", Naci H. Mocan, R. Kaj Grunings, NBER Working Paper, 10/06, [www\(dot\)nber.org/papers/w12631](http://www(dot)nber.org/papers/w12631)

(2007) "Had (D&W's) paper been subjected to the normal blind peer review process in an authoritative economic journal it is highly unlikely that it would have survived intact, if at all."

"(D&W's) Quibbling over numerous and sometimes meaningless statistical issues obscures the picture painted by the cumulative effect of the nearly dozen studies published since the turn of the 21st century."

"Using differing methodologies and data sets at least five groups of scholars each working independently (and often without knowledge of the others) have arrived at the same conclusion—there is significant and robust evidence that executions deter some homicides. While there may be merit in some of (D&W's) specific criticisms, none addresses the totality of the collection of studies. The probability that chance alone explains the coincidence of these virtually simultaneous conclusions is negligible."

"DW's unsupported claim that the appropriate variable in studies of deterrence using these borrowed tools from portfolio analysis is the amount or level of homicides in the respective jurisdictions. This claim is without theoretical basis or empirical precedent."

"With regard to DW's specific comments on our two papers (Cloninger & Marchesini, 2001 & 2006) we find very little requiring defense. Implicit in their critique, and explicitly stated in private communications, DW were able to replicate our results based on data we furnished, at their request, as well as data they acquired independently."

"Reflections on a Critique", Dale O Cloninger and Roberto Marchesini, forthcoming Applied Economic Letters

The findings for deterrence reflect reason, common sense and history.

"According to the standard economic model of crime, a rational offender would respond to perceived costs and benefits of committing crime." "Capital punishment is particularly significant in this context, because it represents a very high cost for committing murder (loss of life). Thus, the presence of capital punishment in a state, or the frequency with which it is used, should unequivocally deter homicide." Furthermore, "an increase in pardons (commutations) implies a decrease in the probability of execution, which economic theory predicts should have a positive (increase) impact on murder rates." (8)

Isaac Ehrlich (1975) provided the first systemic analysis of the relationship between capital punishment and the crime of murder along with the first empirical analysis of the deterrence hypothesis. He found that each execution deterred, on average, 8 murders. Many additional studies have found corroborating evidence supporting the deterrent effect of the death penalty -- from the United States (Ehrlich, 1977, Layson, 1985, Cloninger, 1992, Ehrlich and Liu, 1999, Dezhbakhsh et al, 2000) and Canada (Layson 1983) and the UK (Wolpin, 1978). (9)

Public policy makers take note. Stopping executions will sacrifice innocent lives. Reinstating capital punishment will spare more innocent lives.

full report

THE DETERRENT EFFECT OF THE DEATH PENALTY

by Dudley Sharp

last update 42707

(contact info, below)

"... (E)ach execution results, on average, in eighteen fewer murders ...".

Deterrence

The potential for negative consequences deters some behavior. The most severe criminal sanction -- execution -- does not contradict that finding. Reason, common sense, history and the weight of the studies support the deterrent effect of the death penalty. The death penalty protects innocent lives. The absence of the death penalty sacrifices innocent lives.

Is there any group, be they criminologists, historians, psychologists, economists, philosophers, physicians, journalists or criminals that does not recognize that the prospect of negative consequences constrains or deters the behavior of some? Of course not -- not even fiction writers so speculate. Even irrational people wear seat belts, choose not to smoke and do not rob police stations because of the potential for negative consequences.

I. Twelve Recent Deterrence Studies-- The death penalty saves innocent lives

Above

II. Historical support

Reason, history and common sense all support that the potential for negative consequences deters or alters behavior. In short, incentives, negative or positive, matter. That is undisputed.

Numerous, previous studies have also supported a deterrence finding. And the studies that find a deterrent effect of other criminal sanctions give additional support to the deterrent effect of the death penalty, because, if lesser sanctions deter, then we know that more severe sanctions also deter. The studies that find a deterrent effect of 1. increased police presence, or any other levels of security; 2. arrest/arrest rates; 3. criminal sentencing/incarceration terms; and 4. the presence of rules, laws and statutes all provide additional, collateral support for the deterrent effect of the death penalty. And there are likely hundreds, if not thousands, of such studies and examples (database in progress).

III. Negative consequences matter

Many have discounted a deterrent effect because of the irrationality of potential and active criminals. However, both reason and the evidence support that the potential for negative consequences does affect criminal behavior.

Criminals who try to conceal their crime do so for only one reason -- fear of punishment. Likely, more than 99% of all criminals, including capital murderers, act in such a fashion. Fear of capture does not exist without an expectation of punishment.

This doesn't mean that they sit down before every crime, most crimes or even their first crime, and contemplate a cost to benefit analysis of a criminal action. Weighing negative consequences may be conscious or subconscious, thoughtful or instinctive. And we instinctively know the potential negative consequences of some actions. Even pathetically stupid or irrational criminals will demonstrate such obvious efforts to avoid detection. And there is only one reason for that -- fear of punishment.

When dealing with less marginalized personalities, those who choose not to murder, such is a more reasoned group. It would be illogical to assume that a more reasoned group would be less responsive to the potential for negative consequences. Therefore, it would be illogical to assume that some potential murderers were not additionally deterred by the more severe punishment of execution.

As legal writer and death penalty critic Stuart Taylor observes: "All criminal penalties are based on the incontestable theory that most (or at least many) criminals are somewhat rational actors who try so hard not to get caught because they would prefer not to be imprisoned. And most are even keener about staying alive than about avoiding incarceration." (10)

Based upon the overwhelming evidence that criminals do respond to the potential of negative consequences, reason supports that executions deter and that they are an enhanced deterrent over lesser punishments.

IV. The pre trial, trial and death row evidence - the survival effect

At every level of the criminal justice process, virtually all criminals do everything they can to lessen possible punishments. I estimate that less than 1% of all convicted capital murderers request a death sentence in the punishment phase of their trial. The apprehended criminals' desire for lesser punishments is overwhelming and unchallenged.

Of the 7300 inmates sentenced to death since 1973, 85, or 1.2% have waived remaining appeals and been executed. 98.8% have not waived appeals. The evidence is overwhelming that murderers would rather live on death row than die. Why? The survival effect -- life is preferred over death and death is feared more than life. Even on death row, that is the rule.

Even such marginalized personalities as capital murderers fear death more than imprisonment. And that which we fear the most, deters the most. (kudos to Ernest van den Haag and many others)

It is logical to conclude that some of those less marginalized personalities, who choose not to murder, also, overwhelmingly, fear death more than life, and, we, thus, logically conclude that some are deterred from murdering because of the enhanced deterrent effect of execution.

The evidence for the survival effect in pretrial, trial and appeals is overwhelming and that weighs in favor of execution as a deterrent and as an enhanced deterrent over lesser sentences.

V. If unsure about deterrence

Common sense, reason and history all support that the potential for negative consequences restricts the behavior of some. But, if unsure of deterrence, we face the following dilemma -- If executions do deter, halting executions causes more innocents to be murdered and gives those living murderers the opportunity to harm and murder again. If the death penalty does not deter, and we do execute, we punish murderers as the jury deemed appropriate and we prevent those executed murderers from harming or murdering again.

Oddly, death penalty opponents believe that the burden of proof is on those who say the death penalty is a deterrent. Clearly it is not. The weight of the evidence, within reason, history, common sense and the social sciences is that the potential for negative consequences restricts the behavior of some. That is not in dispute. Furthermore, if opponents cannot prove it is not a deterrent, which they never have and never will, then they are the ones who risk sacrificing innocents, both by absence of deterrence and reduced incapacitation.

Regardless of jurisdiction, under all debated scenarios, more innocents are put at risk when we fail to execute. Any alleged concern for innocents weighs in favor of executions.

VI. The individual deterrent effect

The individual deterrent effect is represented by those who state that they were deterred from committing a murder only because of the prospects of a death sentence. Individual cases support the enhanced deterrent effect. (11)

One Iowa prisoner, who escaped from a transportation van, with a number of other prisoners, stated that he made sure that the overpowered guards were not harmed, because of his fear of the death penalty in Texas. The prisoners were being transported through Texas, on their way to New Mexico, when the escape occurred. Most compelling is that he was a twice convicted murderer from a non death penalty state, Iowa. In addition, he was under the false impression that Texas had the death penalty for rape and, as a result, also protected the woman guard from assault. (12)

New York Law School Professor Robert Blecker recorded his interview with a convicted murderer. The murderer robbed and killed drug dealers in Washington DC., where he was conscious that there was no death penalty. He specifically did not murder a drug dealer in Virginia because, and only because, he envisioned himself strapped in the electric chair, which he had personally seen many times while imprisoned in Virginia. (13)

Senator Dianne Feinstein explained, "I remember well in the 1960s when I was sentencing a woman convicted of robbery in the first degree and I remember looking at her commitment sheet and I saw that she carried a weapon that was unloaded into a grocery store robbery. I asked her the question: 'Why was your gun unloaded?' She said to me: 'So I would not panic, kill somebody, and get the death penalty.' That was firsthand testimony directly to me that the death penalty in place in California in the sixties was in fact a deterrent."(13A)

Logic requires that the individual deterrent effect cannot exist without the general deterrent effect. Therefore, reason dictates that the general deterrent effect must exist. The question is not: "Does deterrence exist?" It does. The issue is: "What is the quantifiable impact of deterrence?"

Individual cases support the individual deterrent effect and such cases insure that general deterrence must exist. And, for both, the evidence also suggests that executions provide enhanced deterrence over incarceration.

VII. Conflicting studies

In reviewing 30 years of deterrence studies, the strongest statement one may make against deterrence is that there is conflicting data (14).

Yet, even when academic bias against capital punishment is overt, such as in the case of the American Society of Criminology -- the subtitle to their death penalty resources page is "Anti-Capital Punishment Resources" -- even they fail to state that the death penalty does not deter some potential murderers, only that "social science research has found no consistent evidence of crime deterrence through execution." (15) That is far from stating that executions do not deter. And the criminologists are, very likely, that academic group most hostile toward the death penalty. What social science conflicts with the notion that the potential for negative consequences restrains the behavior of some? And most would agree that execution is the most serious negative consequence that a murderer may face.

Numerous studies find that executions do deter. And there is a rational conclusion based upon common experience. It appears that all criminal sanctions deter some. It would be irrational to conclude that the most severe and publicized sanction -- execution -- does not deter some potential murderers.

Those studies which do not find deterrence say that they could not detect it, not that it doesn't exist. Those studies which find for deterrence state such.

As Professor Cloninger states: "... (Our recent) study is but another on a growing list of empirical work that finds evidence consistent with the deterrence hypothesis. These studies as a whole provide robust evidence -- evidence obtained from a variety of different models, data sets and methodologies that yield the same conclusion. It is the cumulative effect of these studies that causes any neutral observer to pause." (16)

Conflicting studies and reason both weigh in favor of the death penalty as a deterrent and as an enhanced deterrent over lesser punishments.

VIII. The brutalization effect of executions

Some, particularly death penalty opponents, find that the brutalization effect is more likely than the deterrent effect. The brutalization effect finds that murders will increase because potential murderers will murder because of the example of state executions.

Why would potential and active murderers be so influenced by the state in such a deep philosophical manner, revealed by brutalization, but they wouldn't be more affected by the simple "you murder, we execute you?"

Death penalty opponents make an interesting about face on this issue. They insist that criminals are so thoughtless and impulsive that they can't be affected by the potential of negative consequences but, then, those same opponents see criminals as so contemplative that their criminal actions increase BECAUSE those criminals follow the example of the state. One might ask those opponents: "Is there any other government action which influences criminals in such a fashion?" Do criminals kidnap more BECAUSE the state increases incarceration rates? Do criminals give money to potential victims BECAUSE the state donates to needy causes?

Murder rates and execution rates

Although deterrence is much more than a simple look at only execution rates and murder rates, we do find that as executions have risen dramatically, the murder rate has plunged.

From 1966-1980, a period which included our last national moratorium on executions (June 1967- January 1976), murders in the United States more than doubled from 11,040 to 23,040. The murder rate also nearly doubled, from 5.6 to 10.2/100,000. During that 1966-1980 period, the US averaged 1 execution every 3 years, with a maximum of two executions per year. From 1995-2000 executions averaged 71 per year, a 21,000% increase over the 1966-1980 period. The US murder rate dropped from a high of 10.2/100,000 in 1980 to 5.5/100,000 in 2000 -- a 46% reduction. The US murder rate is now at its lowest level since 1966 (17).

The Texas example -- The murder rate in Harris County (Houston), Texas has fallen 73% since executions resumed in 1982, through 2000, from 31/100,000 to 8.5/100,000 (18). Harris County is, by far, the most active death penalty sentencing and execution jurisdiction in the US. The Harris County murder rate dropped nearly 70% more than did the national murder rate, during similar periods. Texas' murder rate dropped 62% during that same period, or 41% more than the national average.

Potential murderers may have been affected by the example of the state of Texas but, likely, not in a manner consistent with brutalization.

And "(t)he biggest decline in murder rates has occurred in states that aggressively use capital punishment." (19)

After a thorough review of deterrence studies, Professor Samuel Cameron observed, "The brutalization idea is not one the economists have given any credence." "We must conclude that the deterrence effect dominates the opposing brutalization effect." (20)

Reason, history, common sense and the studies weigh against the brutalization effect.

IX. The incapacitation effect

The incapacitation effect states that executed murderers cannot harm or murder again. Reason dictates that living murderers are infinitely more likely to harm and murder again than are executed murderers.

That obvious logic escapes death penalty opponents who say that we can have foolproof incarceration. What hypocrisy. This is the same group of folks who tell us that our system of justice is so fraught with error that we cannot possibly continue the death penalty. Yet, the facts tell us that living murderers harm and murder again, in prison, after escape and after improper release. Executed murderers do not. In addition, the US death penalty appears to be that criminal justice sanction which is the least likely to convict the factually innocent and the most likely to remedy such rare error upon post conviction review.

Stuart Taylor: "Statistical studies and common sense aside, it's undeniable that the death penalty saves some lives: those of the prison guards and other inmates who would otherwise be killed by murderers serving life sentences without parole, and of people who might otherwise encounter murderous escapees". (21)

Under all circumstances, the execution of murderers will protect innocents at a higher rate than will incarceration.

X. Death Penalty Opponents

Why is it that some death penalty opponents appear to laugh off any potential for a deterrent effect of executions? Because to admit that executions deter some potential murderers would be to admit that, in reaching their goals, they will knowingly benefit murderers at the cost of sacrificing more innocent lives. Of course, opponents will never prove it is not a deterrent and many will admit that executions do deter some.

How many would still oppose executions if they knew that the evidence supported the deterrent effect and that many more innocents are put at risk by not executing?

Stuart Taylor: "So those of us who lean against the death penalty must confront the very real possibility that abolishing it could lead to the violent deaths of unknown numbers of innocent men, women, and children. And those who are still skeptical that the death penalty deters any killings must also confront the risk-benefit calculus suggested by political scientist John McAdams of Marquette University: 'If we execute murderers, and there is, in fact, no deterrent effect, we have killed a bunch of murderers. If we fail to execute murderers, and doing so would in fact have deterred other murders, we have allowed the killing of a bunch of innocent victims. I would much rather risk the former. This, to me, is not a tough call.' " (22)

XI. Conclusion

Those of us who support execution do so because it is a just punishment. The moral foundation for all punishments is that they are deserved. One cannot support a punishment based upon deterrence alone.

Reason, common sense and history all fall on the side of deterrence. Be it Sweden or Rwanda, Texas or Michigan, Singapore or Chile, England or Japan, whether high crime rates or low, the death penalty will always deter some potential murderers. Regardless of jurisdiction, the potential for negative outcomes will always restrict the behavior of some. And, the weight of the evidence clearly supports execution as an enhanced deterrent.

As Professor Rubin states, "Our evidence is that there are substantial benefits from executions and, thus, substantial costs of changing this policy (23).

From Prof. Robert Blecker, New York Law School,

"We support execution as a just and appropriate forfeiture of lives which deserve to be taken. We also support execution as a just and appropriate method to save lives which deserve to be saved."

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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.

Pro death penalty sites <http://homicidesurvivors.com/categories/Dudley%20Sharp%20-%20Justice%20Matters.aspx>www.dpinform.comwww.cjlf.org/deathpenalty/DPinformation.htmwww.clarkprosecutor.org/html/links/dplinks.htm

www.coastda.com/archives.html see Death Penalty www.lexingtonprosecutor.com/death_penalty_debate.htm
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The quotation is from the complete, pre publication study which can be found at http://userwww.service.emory.edu/~cozden/Dezhbakhsh_01_01_paper.pdf

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9) Professor Ehrlich, e-mail mgtehr1@acsu.buffalo.edu, phone (716) 645-2121. For support and defense of his work go to <http://wings.buffalo.edu/economics/IEcrime.html>

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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.

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 10:36 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., NCRcafe.org, Posted on Dec 19, 2008, at <http://nrcrcafe.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

"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.mariancatechist.com/html/general/stjohnhardon.htm>

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

<http://www.mariancatechist.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/oscatolog/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=ACfU3U1b0mdM3BfpNSXnhrwFYXaE_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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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? or
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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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/2000/08a.html](http://www.aim.org/publications/aim_report/2000/08a.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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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/ep.html

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From: Sharpjfa@aol.com
Ser : 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/junissuc/2000/art010600.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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Jane Pierson

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 11:06 AM
To: Tom Wright; Jane Pierson
Subject: Cost Comparisons: Death Penalty Cases Vs Equivalent Life Sentence Cases Dudley S
Follow Up Flag: Follow up
Flag Status: Red

**Cost Comparisons: Death Penalty Cases Vs Equivalent Life Sentence Cases
 Dudley Sharp, Justice Matters, contact info below**

In comparing the cost of death penalty cases to other sentences, the studies are woefully incomplete.

Generally, such studies have one or more of the following problems.

1) Most studies exclude the cost of geriatric care, recently found to be \$60,000-\$80,000/inmate/yr. A significant omission from life sentence costs.

2) All studies exclude the cost savings of the death penalty, which is the ONLY sentence which allows for a plea bargain to a maximum life sentence. Such plea bargains accrue as a cost benefit to the death penalty, such benefit being the cost of trials and appeals for every such plea bargain, estimated at \$500,000 to \$1 million, which would accrue as a cost benefit/credit to the death penalty.

Depending upon jurisdiction, this MIGHT result in a minimal cost differential between the two sanctions or an actual net cost benefit to the death penalty, depending upon how many LWOP cases are plea bargained and how many death penalty cases result in a death sentence.

3) FCC economist Dr. Paul Zimmerman finds that executions result in a huge cost benefit to society. "Specifically, it is estimated that each state execution deters somewhere between 3 and 25 murders per year (14 being the average). Assuming that the value of human life is approximately \$5 million {i.e. the average of the range estimates provided by Viscussi (1993)}, our estimates imply that society avoids losing approximately \$70 million per year on average at the current rate of execution all else equal." The study used state level data from 1978 to 1997 for all 50 states (excluding Washington D.C.). (1)

That is a cost benefit of \$70 million per execution. 15 additional recent studies, inclusive of their defenses, support the deterrent effect.

No cost study has included such calculations.

Although we find it inappropriate to put a dollar value on life, evidently this is not uncommon for economists, insurers, etc.

We know that living murderers are infinitely more likely to harm and murder, again, than are executed murderers. There is no doubt that executions do save innocent lives. What value do you put on the lives saved? Certainly not less than \$5 million.

4) Some "cost studies" are blatantly deceptive. Always fact check.

a) Some studies compare the cost of a death penalty case, including pre trial, trial, appeals and incarceration, to only the cost of incarceration for 40 years, excluding all trial costs and appeals, for a life sentence. The much cited Texas "study" does this. Hardly an apples to apples cost comparison.

b) The pure deception in some cost "studies" is overt. It has been claimed that it costs \$3.2 million/execution in Florida. That "study" decided to add the cost of the entire death penalty system in Florida (\$57 million), which included all of the death penalty cases and dividing that number by only the number of executions (18). One could just have easily stated that the cost of the estimated 200 death row inmates was \$285,000 per case.

5) There is no reason for death penalty appeals to take longer than 5-7 years, prior to execution, as in Virginia. All death penalty appeals, direct and writ, should travel through the process concurrently, thereby giving every appellate issue 5-7 years of consideration through both state and federal courts. Again, as in Virginia, strict and enforced time limitations, for both the state and the inmate, should be used. There is no need for endless repetition and delay.

Justice

6) The main reason sentences are given is because jurors find that it is the most just punishment available. No state, concerned with justice, will base a decision on cost alone. If they did, all cases would be plea bargained and every crime would have a probation option.

1). "State Executions, Deterrence and the Incidence of Murder", Paul R. Zimmerman (zimmy@att.net), March 3, 2003, Social Science Research Network, http://papers.ssrn.com/sol3/delivery.cfm/SSRN_ID354680_code021216500.pdf?abstractid=354680

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www.clarkprosecutor.org/html/links/dplinks.htm
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www.prodeathpenalty.com
yesdeathpenalty.googlepages.com/home2 (Sweden)
www.wesleylowe.com/cp.html

Jane Pierson

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:51 AM
To: Tom Wright; Jane Pierson
Subject: The Death Penalty: Not a Human Rights Violation
Follow Up Flag: Follow up
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The Death Penalty: Not a Human Rights Violation
Dudley Sharp, Justice Matters

Some wrongly state that executions are a human rights violation. The human rights violation argument often comes from European leadership and human rights organizations.

The argument is as follows: Life is a fundamental human right. Therefore, taking it away is a fundamental violation of human rights.

Those who say that the death penalty is a human rights violation have no solid moral or philosophical foundation for making such a statement. What opponents of capital punishment really are saying is that they just don't approve of executions.

Certainly, both freedom and life are fundamental human rights. On this, there is virtually no disagreement. However, again, virtually all agree, that freedom may be taken away when there is a violation of the social contract. Freedom, a fundamental human right, may be taken away from those who violate society's laws. So to is the fundamental human right of life forfeit when the violation of the social contract is most grave.

No one disputes that taking freedom away is a different result than taking life away. However, the issue is the incorrect claim that taking away fundamental human rights -- be that freedom or life -- is a human rights violation. It is not. It depends specifically on the circumstances.

How do we know? Because those very same governments and human rights stalwarts, rightly, tell us so. Universally, both governments and human rights organizations approve and encourage taking away the fundamental human right of freedom, as a proper response to some criminal activity.

Why do governments and human rights organizations not condemn just incarceration of criminals as a fundamental human rights violation? Because they think incarceration is just fine.

Why do some of those same groups condemn execution as a human rights violation? Only because they don't like it. They have no moral or philosophical foundation for calling execution a human rights violation.

In the context of criminals violating the social contract, those criminals have voluntarily subjected themselves to the laws of the state. And they have knowingly placed themselves in a position where their fundamental human rights of freedom and life are subject to being forfeit by their actions.

Opinion is only worth the value of its foundation. Those who call execution a human rights violation have no credible foundation for that claim. What they are really saying is "We just don't like it."

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www.dpinfo.com

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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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Jane Pierson

From: Sharpjfa@aol.com
Sent: Monday, February 23, 2009 10:50 AM
To: Tom Wright; Jane Pierson
Subject: cost studies _ LET ME KNOW - They're all different, see this one Maryland

In a message dated 2/18/2009 2:24:55 P.M. Central Standard Time, Sharpjfa writes:

To: Maryland Legislature, Prosecutors and media throughout the region

From: Dudley Sharp, contact info below

SUMMARY: The cost errors, within the Majority Report, are so substantial that their cannot be considered reliable. Is it possible that a properly managed death penalty system could be less expensive than a true life sentence? Read on.

NOTE: See the hidden "Minority Report", stuck between pages 128 and 129 of the majority report. It is a 23 page rebuttal of the majority report. The Governor made sure that it was well hidden. There is not even a reference to it in the Table of Contents, even though the Minority Report is much, much longer than any section of the majority report. Politics at its worst.

Some observations on the Urban Institute (UI) Cost of the Death Penalty in Maryland (1) as well as on the Majority Report.

The UI conclusion was that the lifetime case cost for the 56 death penalty cases will cost Maryland taxpayers \$186 million, or \$106 million more than if death wasn't pursued in those cases or about \$47,000 per year per inmate, more.

The study found that the average cost of a case where a death notice was not sought was \$1.1 million/case, that being \$250,000 for adjudication and \$860,000 for confinement/prison costs.

Unfortunately, many more cases were used than just those which make up life without parole (LWOP). This, wrongly and totally, skewed the results.

That was inappropriate from a public policy standpoint and the majority should have known it.

The only public policy cost discussion regarding the death penalty, nationwide, is the cost differential between LWOP cases and death penalty cases. This is very well known, If anyone doesn't know it, it would take 10 minutes online to figure it out.

It begs the question, why did the UI muddy the waters with a bunch of cases that didn't get LWOP?

Regardless of UI's reasons, the answer is, they shouldn't have.

Here's why.

1) The public policy debate is concentrated on LWOP as a considered replacement for the death penalty. Sentences less than LWOP are not under consideration in this current debate.

2) By including cases of less than LWOP, within the non death category, UI and the majority has lowered the costs of that category, perhaps substantially, and has misled or confused the public as to the real cost disparities, if any, which may exist between the death penalty and LWOP in Maryland.

3) Had UI only included LWOP cases in that category, the cost disparity would be reduced, perhaps substantially.

Using current data, scenarios exist that could result in a finding that the death penalty may actually be less expensive than LWOP. See below.

What wasn't calculated

4) a) Each case, whereby a plea bargain to a sanction less than death was rendered, the state saves about \$250,000/case for legal expenses, based upon UI estimates.

b) The number is, likely, far above that \$250,000/case evaluation, because 1) UI wrongly included non LWOP cases and 2) wrongly credited the cost reduction of those pleas, within the LWOP category, when, instead, 3) a credit of \$250,000/case, but likely much larger, should have been placed in the death case data calculations, resulting in an additional increase per case cost within the true LWOP category and a greater reduction in the death case category.

Properly, this credit can happen only when LWOP plea cases are isolated. This is public policy 101. The majority wrongly discounted plea bargains to a life sentence. The cost savings are substantial.

5) For example:

a) Presume the average LWOP case, resulting in LWOP, has adjudication costs of \$500,000, from pre trial to conviction and throughout appeals. If a LWOP sentence was given as part of a plea bargain, prior to a death notice being filed, UI shows that cost as \$0 for adjudication, thus lowering the average cost of all cases where death wasn't pursued in potentially capital cases.

That would be improper, from any standpoint.

b) A LWOP plea bargain can only occur because the state has the death penalty. So, instead of lowering the average cost of all LWOP cases, all LWOP plea cases would be removed from the LWOP database and a cost credit of \$500,000 would be applied as a cost benefit within death penalty category, because it was solely the presence of the death penalty which allows for a plea bargain to LWOP. Thus, death penalty costs and overall costs to the state, would drop substantially and the average costs of LWOP would rise.

c) That results in two changes:

- 1) The average cost of LWOP cases will rise, possibly substantially, because a \$0 adjudication cost entry will be removed from the LWOP cases; and
- 2) The average cost of death penalty cases may lower, possibly substantially, because a \$500,000 cost reduction will be made to the death penalty cost basis, for each such LWOP plea.

To state the obvious, UI made an error in reversing the credit in pleas.

6) For an accurate public policy review of death penalty costs vs LWOP costs, Maryland Legislators should:

a) Compare the costs of only the death penalty cases which were pursued and a death

penalty resulted and only LWOP cases that were pursued, resulting in a LWOP sentence; and

b) include the proper calculations for credit of LWOP pleas bargains, which are solely the result of the presence of the death penalty.

c) Why exclude the death penalty cases which were pursued, resulting in sentences less than the death penalty? For the same reason we exclude LWOP cases which result in sentences of less than LWOP.

You should be looking , only, at true death cases costs vs true LWOP costs. If UI wants to add a bunch of other cost categories, fine, but these are the two that must be done.

They weren't.

COST SAVINGS - Death Row incarceration

1) The extra \$350,000 per case for additional cost for death row incarceration is an unnecessary waste of taxpayer money. Missouri doesn't even have a death row for their death sentenced prisoners.

2) There is no reason that death penalty appeals should take longer than 7-10 years.

a) Both appellate paths, direct appeal and writ, should travel through the appellate process, at the same time.

b) The legislature, trial and appellate courts should work together to establish reasonable time frames for appeals and responses to them.

GERIATRIC CARE - Prisoner geriatric care has recently been found to be about \$70,000/inmate/year, on average. Has that been calculated in Maryland?

REQUIREMENT

Maryland must redo their calculations to compare costs of true LWOP cases to death penalty cases, for two reasons.

First, it is the only public policy cost issue which exists, with regard to the death penalty in Maryland

Secondly, what you have, now, cannot be relied upon.

UI: Additional Errors in Judgement

UI's reliance on Donahue and Wolfers (2006), who have been highly critical of some of the recent studies finding for deterrence, was unwarranted and inappropriate.

UI's authors failed to note that Donahue and Wolfers criticisms have been dissected and trashed by those authors whose studies found for deterrence.

I believe all of those replies, heavily critical of Donahue and Wolfers, were published prior to the UI report.

Furthermore, UI failed to mention that Donahue and Wolfers' work was not peer reviewed, but many and most of the studies finding for deterrence were. Had Donahue and Wolfers work been peer reviewed, it is a question if it ever would have been published in a peer reviewed publication.

Both of these points are important and inexcusable omissions by UI.

Instead of mentioning the rebuttals, UI, instead, deferred to Donahue and Wolfers, as a way of neutralizing the importance of the studies finding for deterrence, and then mentioned a study which found against deterrence.

UI wrongly states that studies go either way so we shouldn't bother with them.

Total nonsense. 16 recent studies, including strong rebuttals to criticism, find for death penalty deterrence.

In one reply to Donahue and Wolfers, after their data had been re-run, based upon Donahue and Wolfers criticism:

"I oppose the death penalty. " " But my results show that the death penalty (deters) — what am I going to do, hide them?" "Science does really draw a conclusion. It did. There is no question about it." "The results are robust, they don't really go away" "The conclusion is there is a deterrent effect."

Prof. Naci Mocan, Economics Chairman, University of Colorado at Denver
"Studies say death penalty deters crime", ROBERT TANNER, Associated Press, June 10, 2007, 2:01 PM ET

Furthermore, one of the deterrence studies found a \$70 million cost benefit, per execution, because of the number of lives saved per execution.

Obviously, that would render the death penalty a huge cost benefit in Maryland.

Many other important conclusions of the deterrence studies were omitted from the UI report. If UI didn't wish to give a proper, accurate review of deterrence, stay away from it. Why wrongly muddy the waters?

Public policy makers take note.

Misleading Conclusion

The UI authors stated that:

"Prior research on the costs of capital punishment in other states unambiguously finds that capital cases are more expensive to prosecute than non-capital cases. "

To "prosecute", generally yes, but not always.

And when did the studies ONLY look at prosecution?

In one of UI's included studies, Cook, North Carolina Cost Study (1993), the UI authors seemed to have missed a very important and obvious point.

The study finds that, for two different calculations, that the death penalty costs \$163,000 and \$213,000/case more than a life sentence.

But, the calculation for a life sentence is only to 20 years.

For a true life sentence, you would be adding \$300,000 or more to each life case, meaning that a life sentence costs more than the death penalty.

Furthermore, the authors conceded not including geriatric care, recently found to be \$69,000/inmate/yr. meaning lifers cost a lot more than death sentenced prisoners, possibly adding an additional \$300,000/case, or more, for a true LWOP sentence.

That could render life cases \$600, 000 or more, more expensive than death sentences in North Carolina.

Furthermore, the calculations didn't include the benefit of plea bargains to life, possible only because of the death penalty.

Unambiguous, UI? Not close.

Based upon the UI authors not seeing these very obvious and important facts, or deciding not to share them within their report, one may conclude that UI authors may have made similar errors or omissions in their review of the other included studies.

Reviewers should keep that in mind.

CONCLUSION

UI, a public policy institution, avoided the only public policy issue which exists in the death penalty cost debate:

"What is the difference in cost between the death penalty and a true LWOP?"

Depending upon the number of plea bargains to LWOP, there may be very little cost difference between the death penalty and LWOP.

Furthermore, if both the presence of the death penalty, as well as executions, saves many innocent lives, as 16 of the recent deterrence studies(1) suggest, then the benefit of the death penalty far surpasses any alleged cost deficit, if any, or is a huge added benefit to any cost benefit of the death penalty, if there is one.

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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.

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 see Death Penalty

www.lexingtonprosecutor.com/death_penalty_debate.htm

www.prodeathpenalty.com

<http://yesdeathpenalty.googlepages.com/home2> (Sweden)

www.wesleylowe.com/cp.html

(1) http://www.urban.org/UploadedPDF/411625_md_death_penalty.pdf

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Jane Pierson

From: Sharpjfa@aol.com
Sent: Thursday, February 26, 2009 6:36 AM
To: Tom Wright; Jane Pierson
Subject: Reply please Can Rev. Carroll Pickett be trusted "At the Death House Door"?

Dear Jane and Tom:

I didn't see this in the record. I may have missed it.

The opposition put a flyer , in the record, regarding this film, In addition, there is an anti death penalty meeting on March 8th, with Rev Pickett as the speaker. <http://www.aadp.info/>

dudley

In a message dated 2/23/2009 2:36:07 P.M. Central Standard Time, Sharpjfa writes:

**Can Rev. Carroll Pickett be trusted "At the Death House Door"?
 Dudley Sharp, Justice Matters, contact info below**

**To: Film schools, festivals, institutes, websites and reviewers, worldwide .
 Distributed since May, 2008**

Rev. Pickett is on a promotional tour for the anti death penalty film "At the Death House Door". It is, primarily, about the Reverend's experience ministering to 95 death row inmates executed in Texas.

Rev. Pickett's inaccuracies are many and important.

Does Rev. Pickett just make facts up as he goes along, hoping that no one fact checks, or is he just confused or ignorant?

Some of his miscues are common anti death penalty deceptions. The reverend is an anti death penalty activist.

Below are comments or paraphrases of Rev. Pickett, taken from interviews, followed by my REPLY:.

I encourage more fact checking.

1) Pickett: (In 1989) "I was so 100% certain that he couldn't have committed this crime. (Carlos) was a super person to minister to. I knew Carlos was not guilty. "I knew (executed inmate) Carlos (De Luna) didn't do it." (1)

REPLY: There is this major problem. It appears that Rev. Pickett is, now, either lying about his own 1989 opinions or he is very confused.

In 1999, 4 years after Rev. Pickett had left his death row ministry, and he had become an anti death penalty activist, and 10 years after De Luna's execution, the reverend was asked, in a PBS Frontline interview,

"Do you think there have been some you have watched die who were strictly innocent?"

Pickett's reply: "I never felt that."(2)

For at least 15 years, Pickett never felt that any of the 95 executed were actually innocent.

This directly conflicts with his current statements on Carlos De Luna. Rev. Pickett is, now, saying that he was 100% sure of De Luna's innocence in 1989!

If he was 100% sure of DeLuna's execution in 1989, what's up with the PBS interview?.

How could Rev. Pickett forget the only "innocent" person he saw executed - he was 100% sure of his innocence - on his watch? Wouldn't anyone find that to be 100% impossible to forget, particularly when you are asked, specifically, about it during a formal interview?

When is the first confirmable date that Rev. Pickett stated he believed in DeLuna's actual innocence?

It appears the reverend has either revised history to support his new anti death penalty activism - he's lying - or he is, again, very confused. Reverend?

2) Sara Hickman, musician, anti death penalty activist, and acquaintance of Pickett's, wrote ". . . Rev. Carroll Pickett (the death row minister who witnessed 95 executions in Huntsville; he is convinced that at least 15 of those men were innocent),. . . ". (3)

Reply: In 1999 Rev. Pickett didn't believe any of those 95 executed were innocent, now, in 2008, he is convinced that 15 innocents were executed. Quite remarkable, if true.

Rev. Pickett can you tell us which 15 you are convinced were executed innocents? And what is your evidence? Or did Ms. Hickman get it wrong? Reverend?

I have inquired with Ms. Hickman (sara@sarahickman.com) and Rev Pickett (carrollpickett57@gmail.com) but, so far, no reply.

3) Introduction: In 1974, prison librarian Judy Standley and teacher Von Beseda were murdered during an 11 day prison siege and escape attempt. Ignacio Cuevas was sentenced to death, as one of three prisoners who were involved. The other two died in the shootout.

Ms. Standley and Ms. Beseda were part of Rev. Pickett's congregation, outside of prison.

Pickett: After Cuevas was executed, Rev. Pickett alleges that he met with Judy Standley's family and they told the reverend that "This (the execution) didn't bring closure." "This didn't help us." According to Rev. Pickett, "They didn't want him (Ignacio Cuevas) executed." (1)

Reply; There might be a big problem. Judy Standley's five children wrote a statement, before the execution, which stated: "We are relieved the ordeal may almost be over, but we are also aware that to some, this case represents only one of many in which, arguably, justice delayed is justice denied," "We are hopeful the sentence will finally be carried out and that justice will at last be served," said the statement, signed by Ty, Dru, Mark, Pam and Stuart Standley. (4)

Sure seemed like the kids wanted Cuevas to be executed. Doesn't it? Reverend?

4) Pickett: spoke of the Soldier of Fortune murder for hire case, stating the husband got the death penalty, while the hired murderer got 6 years. (1)

Reply: Rev. Pickett's point, here, appears to be the unfairness of the sentence disparity. More fact problems. John Wayne Hearn, the hitman, was sentenced to life imprisonment for the murder of Sandra Black.

5) Pickett: "A great majority of them (the 95 executed inmates he ministered to) were black or Hispanic." (1)

Reply: The reverend's point, here, appears to emphasize the alleged racist nature of the death penalty. There is a problem for the reverend- the facts - the "great majority" were 47 white (49%) with 32 black (34%), and 16 Hispanic (17%).

6) Pickett: "Out of the 95 we executed only one that had a college degree. All the rest of them their education was 9th grade and under." (1)

Reply: Not even close. Rev. Pickett's point, here, seems to be that capital murderers are, almost all, idiots who can't be held responsible for their actions. But, there are more fact problems for the reverend. In a review of only 31 of the 95 cases, 5 had some college or post graduate classes and 16 were high school graduates or completed their GED. Partial review (Incomplete Count), below.

Would Rev. Pickett tell us about the educational achievements of all the true innocent murder victims and those that weren't old enough for school?

7) Pickett: believes that, no way, could someone, so afraid of lightning and thunder, such as Carlos De Luna, use a knife (in a crime). (1)

Reply: Is the reverend not aware of DeLuna's record? In 1980, "De Luna was charged with attempted aggravated rape and driving a stolen vehicle, he pleaded no contest and was sentenced to 2 to 3 years. Paroled in May 1982, De Luna returned to Corpus Christi. Not long after, he attended a party for a former cellmate and was accused of attacking the cellmate's 53-year-old mother. She told police that De Luna broke three of her ribs with one punch, removed her underwear, pulled down his pants, then suddenly left. He was never prosecuted for the attack, but authorities sent him back to prison on a parole violation. Released again in December of that year, he came back to Corpus Christi and got a job as a concrete worker. Almost immediately, he was arrested for public intoxication. During the arrest, De Luna allegedly laughed about the wounding of a police officer months earlier and said the officer should have been killed. Two weeks after that arrest, Lopez was murdered." (Chicago Tribune) Being a long time criminal, we can presume that there were numerous additional crimes committed by De Luna and which remained unsolved.

Was De Luna capable of committing a robbery murder, even though he had big brown eyes and was scared of lightning? Of course. Rev. Pickett?

8) Pickett: speaks of how sincere hostage taker, murderer Ignacio Cuevas was. Rev. Pickett states that "between 11 and midnight (I) believe almost everything" the inmates say, because they are about to be executed. (1)

Reply: Bad judgement. Minutes later, Cuevas lied when on the gurney, stating that he was innocent. This goes to show how Rev. Pickett and many others are easily fooled by these murderers. Pickett concedes the point.

9) Pickett: "In my opinion and in the opinion of the convicts, life in prison, with no hope of parole, is a much worse punishment (than the death penalty)." "Most of these people (death row inmates) fear life in prison more than they do the possibility of execution." (5)

REPLY: More fact problems. We know that isn't the opinion of those facing a possible death sentence of those residing on death row. This gives more support to my suspicion that Rev. Pickett is putting words into the inmates' mouths.

Facts: What percentage of capital murderers seek a plea bargain to a death sentence,

rather than seeking a life 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 (less than 2%). They prefer long term imprisonment. This is not, even remotely, in dispute. How could Rev. Pickett not be aware of this? How long was he ministering to Texas' death row? 13 years? So, what? Did he just make this up?

10) Pickett: stated that "doctors can't (check the veins of inmates pending execution), it's against the law." (1)

Reply: Ridiculous. Obviously untrue.

11) Pickett: Pavulon (a paralytic) has been banned by vets but we use it on people. (1)

REPLY: This is untrue and is a common anti death penalty deception. The American Veterinary Medical Association (AVMA) states, "When used alone, these drugs (paralytics) all cause respiratory arrest before loss of consciousness, so the animal may perceive pain and distress after it is immobilized." Obviously, paralytics are never used alone in the human lethal injection process or animal euthanasia. The AVMA does not mention the specific paralytic - Pavulon - used in lethal injection for humans. These absurd claims, falsely attributed to veterinary literature, have been a bald faced lie by anti death penalty activists.

In Belgium and the Netherlands, their euthanasia protocol is as follows: A coma is first induced by intravenous administration of 20 mg/kg sodium thiopental (Nesdonal) (NOTE-the first drug in human lethal injection) 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) (NOTE-the second drug, the paralytic, in human lethal injection) or 20 mg vecuronium bromide (Norcuron). The muscle relaxant should preferably be given intravenously, in order to ensure optimal availability (NOTE: as in human lethal injection). Only for pancuronium bromide (Pavulon) are there substantial indications that the agent may also be given intramuscularly in a dosage of 40 mg. (NOTE: That is how effective the second drug in human lethal injection is, that it can be given intramuscularly and still hasten death).

Just like execution/lethal injection in the US, although we give a third drug which speeds up death, even more.

12) Pickett: "Most of the inmates would ask the question, "How can Texas kill people who kill people and tell people that killing people is wrong?" That came out of inmates' mouths regularly and I think it's a pretty good question to ask." (5)

REPLY: I simply don't believe it. Most? Would that be more than 47 out of 95? 10 out of 95? Doubtful. I suspect it is no coincidence that "Why do we kill people to show that killing is wrong" has been a common anti death penalty slogan for a very long time. I suspect that Rev. Pickett has just picked it up, used it and placed it in inmate's mouths. Furthermore, we don't execute murderers to show that murder is wrong. Most folks know that murder is wrong even without a sanction.

13) Pickett: said an inmate said "its burning" "its burning", during an execution. (1)

REPLY: This may have occurred for a variety of reasons and does not appear to be an issue. It is the third drug which is noted for a burning sensation, if one were conscious during its injection. However, none of the inmates that Rev. Pickett handled were conscious after the first drug was administered. That would not be the case, here, as the burning complaints came at the very beginning of the injection process, which would involve a reaction where the burning would be quite minor. Has Rev. Pickett reviewed

the pain and suffering of the real victims - the innocent murdered ones?

Bottom line. Reverend Pickett's credibility is as high as a snakes belly.

Time to edit the movie?!

 Incomplete count

this is a review of 31 out of the 95 death row inmates ministered by Rev. Pickett

21 of the 31 below had some college or post graduate classes (5)
 or were high school graduates or completed their GED (16)

-
- 1) Brooks 12
 - 3) O'Bryan post graduate degree - dentist
 - 41 James Russel 10th
 - 42 G Green sophomore college
 - 45 David Clark 10th and GED
 - 46 Edward Ellis 10th
 - 47 Billy White 10th
 - 48 Justin May 11th
 - 49 Jesus Romero 11th and GED
 - 50 Robert Black, Jr. a pilot (probably beyond 12th)
 - 55. Carlos Santana 11th
 - 57 Darryl Stewart 12th
 - 58 Leonel Herrera 11th and GED
 - 60) Markum Duff Smith Post graduate College
 - 33) Carlos De Luna 9th
 - 95 Ronald Keith Allridge 10th and GED
 - 93 Noble Mays Junior in College
 - 92 Samuel Hawkins 12th
 - 91 Billy Conn Gardner 12th
 - 90 Jeffery Dean Motley 9th
 - 89 Willie Ray Williams 11th
 - 86 Jesse Jacobs 12th
 - 85 Raymond Carl Kinnamon 11th and GED
 - 84 Herman Clark sophomore college
 - 83 Warren Eugene Bridge 11th
 - 82 Walter Key Williams 12th
 - 72 Harold Barnard 12th
 - 73 Freddie Webb 11th and GED
 - 75 Larry Anderson 12th
 - 77 Stephen Nethery 12th
 - 79 Robert Drew 10th

1) "Chaplain Discusses 'Death House' Ministry", Interview, Legal Affairs, FRESH AIR, NPR, May 19, 2007.

2) "The Execution: Interview with Reverend Carroll Pickett", PBS, FRONTLINE, 1999
[www\(DOT\)pbs.org/wgbh/pages/frontline/shows/execution/readings/pickett.html](http://www(DOT)pbs.org/wgbh/pages/frontline/shows/execution/readings/pickett.html)

3) "Hickman: Texas needs to start a dialogue on the death penalty", OTHER TAKES, Austin American-Statesman, July 30, 2008

4) "Appellate court refuses to stay killer's execution", Kathy Fair, HOUSTON CHRONICLE, Section A, Page 1, 2 Star edition, 05/23/1991

5) THE FAILURE INTERVIEW: REVEREND CARROLL PICKETT—AUTHOR OF

**"WITHIN THESE WALLS: MEMOIRS OF A DEATH HOUSE CHAPLAIN" Interview, by
Kathleen A. Ervin
www(DOT) failuremag.com/arch_history_carroll_pickett_interview.html**

**Dudley Sharp, Justice Matters
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Houston, Texas**

**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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Jane Pierson

From: Sharpjfa@aol.com

Sent: Thursday, February 26, 2009 7:03 AM

Subject: STUDY: COST SAVINGS FROM REPEAL OF DEATH PENALTY MAY BE ELUSIVE

To: Maryland Legislature, Prosecutors and
media throughout the region

Forwarded by Dudley Sharp, contact info at bottom

NOTE: I think CJLF is being very generous. Not only do most, if not all, cost evaluations avoid the death penalty credit for plea bargains to life, they usually don't calculate the cost of geriatric care for lifers and, quite often, the evaluations are so biased, against the death penalty, that they don't represent anything close to a balanced review. For example, the Maryland cost review reversed the credit for the plea bargain to a life sentence.

I am not affiliated with CJLF.

CJLF

Criminal Justice Legal Foundation

PRESS RELEASE

09-05

FOR IMMEDIATE RELEASE
February 25, 2009

Michael Rushford, President
(916) 446-0345

**STUDY: COST SAVINGS FROM REPEAL OF DEATH PENALTY
MAY BE ELUSIVE**

Prior Studies Fail to Account for Savings from Guilty Pleas with Life Sentences

Legislatures expecting a large savings in trial costs from repealing the death penalty may be in for a disappointment, according to a study released today by the Sacramento-based Criminal Justice Legal Foundation. The most widely cited estimates ignore or minimize an important cost-saving effect of having the death penalty available.

In states where the death penalty is the maximum punishment, a larger number of murder defendants are willing to plead guilty and receive a life sentence. The greater cost of trials where the prosecution does seek the death penalty is offset, at least in part, by the savings from avoiding trial altogether in cases where the defendant pleads guilty. Although this effect is well known to people working in the field, there appears to be no prior study to determine the actual size of this effect.

An example of the plea bargaining effect occurred two weeks ago in Navarro County, Texas. Shaun Earl Arender confessed to the sexual assault and murder of six-year-old Hanna Mack and was sentenced to life in prison without the possibility of parole in return for avoiding the death penalty. If Texas did not have the death penalty, this case would almost certainly have gone to trial. Sentencing expert Douglas Berman of Ohio

State University notes on his blog, "I think an important and underexamined aspect of the death penalty is its impact on plea bargaining and other pre-trial aspects of the investigation and prosecution of horrible murders."

The study released today, *The Death Penalty and Plea Bargaining of Life Sentences*, analyzed data gathered by the U.S. Bureau of Justice Statistics from 33 large urban counties. The study examined how many of the murder cases were resolved by guilty plea, how many went to trial, and how many resulted in a sentence of at least 20 years.

In states with the death penalty, the average county obtained sentences of 20 years or more in 50.7% of cases where the defendant was charged with murder and convicted of murder or voluntary manslaughter. These sentences were obtained through a guilty plea in 18.9% of the cases. In states without the death penalty, sentences of 20 years or more were obtained in 40.5% of such cases, but only 5.0% of those were guilty pleas, a little over a quarter of the number in the death penalty states.

The difference in the two groups of counties is "statistically significant," meaning it is highly unlikely to have happened at random. A correlational study such as this cannot definitively prove that the death penalty is the cause of the difference observed, but no other explanation is apparent.

This result is consistent with a 2006 study by economist Ilyana Kuziemko, then at Harvard and now at Princeton. She found that the availability of the death penalty did not have a large effect on the total number of cases plea bargained, but without the death penalty more defendants obtained reductions to lower degrees of homicide.

Opponents of the death penalty contend that life imprisonment will serve just as well to incapacitate convicted murderers. (The separate question of deterrence remains hotly disputed.) However, incapacitation will certainly be reduced and more innocent people will be murdered if fewer defendants are actually sentenced to life in prison. Without the threat of the death penalty, either many more cases must go to trial or many more murderers will be released in the future.

In a recent, widely cited study of death penalty costs in Maryland by the Urban Institute, one-third of the cases eligible for the death penalty were resolved by a guilty plea. Yet the study's estimate of costs makes no allowance for the possibility that percentage would drop sharply if the death penalty were repealed. Study commission reports in New Jersey and California have similarly ignored the issue or made inadequate allowance for it.

"The fact that these studies have omitted an important and obvious factor raises serious questions about their credibility," said CJLF's Legal Director Kent Scheidegger, the author of the study. "What else did they leave out?" To take just one example, both the Maryland and California studies calculate death row imprisonment costs on the assumption that inmates sentenced to death will live out their natural lives in prison. With an effective death penalty system executing its judgments in an average of five years, the imprisonment costs would be dramatically lower than these estimates.

“Repeal advocates are promising legislatures a pot of gold,” said Scheidegger. “That pot may be as elusive as the mythical one at the end of the rainbow, or it may be purchased with the lives of innocent people.”

CJLF Legal Director Kent Scheidegger is available for comment at (916) 446-0345.

The working paper for this study may be found on CJLF's web site at:
<http://www.cjlf.org/papers/wpaper09-01.pdf>

Criminal Justice Legal Foundation

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Houston, Texas

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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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 see Death Penalty

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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Jane Pierson

From: Sharpjfa@aol.com
Sent: Friday, March 06, 2009 10:53 AM
To: catholicanchor@gci.net
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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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.

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/ep.html

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Jane Pierson

From: Sharpjfa@aol.com
Sent: Friday, March 06, 2009 10:54 AM
To: catholicanchor@gci.net
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., NCRcafe.org, Posted on Dec 19, 2008, at <http://ncrcafe.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_Scripture/Sacred_Scripture_014.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.mariancatechist.com/html/general/stjohnhardon.htm><http://www.therealpresence.org>

(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=yhttp://www.newliturgicalmovement.org/2006/02/romano-amerio-and-pope-benedict.htmlhttp://www.latin-mass-society.org/2007/romanoamerio.htmlhttp://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?](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=ACfU3U1bomdM3BfpNSXnhrwFYXaE_9Ij9A)

[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-](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=ACfU3U1bomdM3BfpNSXnhrwFYXaE_9Ij9A)

[8859-1&output=html&sig=ACfU3U1bomdM3BfpNSXnhrwFYXaE_9Ij9A](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=ACfU3U1bomdM3BfpNSXnhrwFYXaE_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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www.clarkprosecutor.org/html/links/dplinks.htm

www.coastda.com/archives.html see Death Penalty

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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Jane Pierson

From: Sharpjfa@aol.com
Sent: Friday, March 20, 2009 7:56 AM
Subject: Rebuttal of Gov. Richardson - New Mexico Repeal

To: Governors, Legislatures, Attorneys General & Media throughout the US

From: Dudley Sharp, contact info below

SETTING THE RECORD STRAIGHT: A Rebuttal to Governor Richardson
 Repeal of the Death Penalty in New Mexico
 Dudley Sharp, contact info below

1) Gov. Bill Richardson states: "Faced with the reality that our system for imposing the death penalty can never be perfect, my conscience compels me to replace the death penalty with a solution that keeps society safe." (1)

REBUTTAL: There is no proof of an innocent executed in the US since 1900. There is overwhelming proof that many thousands of innocents have been murdered because of the lack of perfection in parole, probation, early release, prison/jail management etc.

Why did the Governor choose to end that criminal justice practice - the death penalty - which may be the least likely to result in innocent deaths?

Lack of perfection had nothing to do with his decision.

In addition, the death penalty protects innocents at a higher level than does a life sentence. (FOOTNOTE: "Death penalty repeal arguments are false" paragraph 2 & 3).

No one disputes that the death penalty has greater due process than lesser sentences - meaning that actual innocents, serving life, are more likely to die in prison than are actual innocents likely to be executed.

2) Governor Richardson stated: "The bill I am signing today . . . replaces the death penalty with true life without the possibility of parole - a sentence that ensures violent criminals are locked away from society forever . . .". (1)

REBUTTAL: Governor Richardson knows that there is no such thing as true life without "possibility" of parole.

The only absolute with sentencing is that the executive branch, a Governor or President, can commute any sentence and release criminals, early - as Governor Richardson did, in Nov. 2004, when he commuted Janet Vigil's "life" case. (2)

How quickly he "forgot".

Gov. Richardson's buddy, former New Mexico Gov. Toney Anaya, commuted William Wayne Gilbert's death sentence in 1986.

Gilbert led a 7 inmate prison escape, a few months later, where Gilbert shot a guard. (3)

Gilbert had previously murdered "... his wife, Carol; a newlywed couple, Kenn and Noel Johnson, and a young model, Barbara McMullen. He bragged of other murders, as well. 'It was very easy to kill,' he said. 'It's almost like it's the night before Christmas when you're 5 years old.' "

Hardly a great candidate for commutation. But, this commutation wasn't about the criminal or about the citizens of New Mexico. It was all about Gov. Anaya. His commutations of all death row, had nothing to do with allegations of protecting innocents - it did just the opposite, of course - he just didn't like the death penalty and he takes no responsibility for the outcome.

In addition, legislatures can write new laws which, retroactively, reduce sentences already given.

Gov. Richardson is aware that states around the US are, now, doing just that, as more consider reducing life sentences to save money by releasing lifers, early.

3) The Governor stated: "More than 130 death row inmates have been exonerated in the past 10 years in this country, including four New Mexicans – a fact I cannot ignore." (1)

REBUTTAL: The Governor has been informed, repeatedly, that the 130 exonerated is a complete fraud, as has been well documented by many and presented to the Governor, often (FOOTNOTE, paragraph 3). Not only is he not ignoring this deception, he is advancing it, even when it is so easy to disprove. Governor, how many innocents were harmed and murdered because of the lack of perfection in parole, probation, early release, prison/jail management etc.?

4) What about law enforcements' concerns?

"The New Mexico Sheriffs' and Police Association opposed repeal, saying capital punishment deters violence against police officers, jailers and prison guards. District attorneys also opposed the legislation, arguing that the death penalty was a useful prosecutorial tool." (4)

They told the Governor that the death penalty saves lives and helped solve cases.

The Governor conceded that "the death penalty may be a deterrent"(1), thereby telling us that the death penalty is more likely to save innocent lives than it is to take them.

He also conceded that by repealing the death penalty he was taken away a tool for law enforcement. (1) He didn't speculate how many innocent lives he was sacrificing by ending that tool.

We may never know why he really ended the death penalty. We do know that it had nothing to do with saving innocent lives.

"Bernalillo County Sheriff Darren White said law enforcement officers have 'lost a layer of protection and it's a sad day in New Mexico.' " (4)

(1) Gov. Bill Richardson's statement on signing the repeal of New Mexico's death penalty (3/18/09)

(2) " In Loving Memory of Estevan Vigil", http://www.nmsoh.org/vigil_estevan_mem.htm

(3) "Let Loose by the Governor", The Justice Story, The New York Daily News, 3/11/07
http://www.nydailynews.com/news/ny_crime/2007/03/11/2007-03-11_let_loose_by_the_governor.html

(4) "New Mexico governor signs measure to abolish death penalty"
DEBORAH BAKER, Associated Press Writer, Originally published Wednesday, March 18, 2009 at 5:21 PM

FOOTNOTE: "Death penalty repeal arguments are false"

In a message dated 3/17/2009 4:37:39 P.M. Central Daylight Time, Sharpjfa writes:

To: Governor Richardson, staff and cabinet and
Corrections Department and Police Agencies and media throughout New Mexico

From: Dudley Sharp, contact info, below

Dear Honorable Governor Richardson:

In addition to all of the pro-repeal arguments being weak or false (see below), the death penalty should remain as the just sanction for some of the worst crimes.

JUSTICE: The death penalty should remain in New Mexico because of justice. New Mexico is currently investigating serial murders which, to date, have reached 14 victims. Leave the death penalty option up to New Mexico jurors, for such cases as this, as well as the rape/murder of children and the murder of police officers and correction workers and other crimes.

1) COST SAVINGS

The LFC fiscal evaluation wrongly found the North Carolina death penalty more expensive than a 20 year "life" sentence. It wasn't. The was the only study cited (1)

Reasonable and responsible protocols, currently in use, will produce a death penalty which will cost less or no more than LWOP. (2)

Example: Virginia executes in 5-7 years; 65% of those sentenced to death have been executed; 15% of their death penalty cases are overturned. With the high costs of long term imprisonment, a true life sentence will be more expensive than such a death penalty protocol. (2)

Most cost studies suffer from major problems, such as a) not crediting the death penalty for allowing plea bargains to a true life sentence (\$300,000 to \$1 million savings or more, for each plea); 2) not including geriatric care for life sentences (cost of \$60,000-\$90,000/year/inmate); c) deceptively inflating costs of executions, based upon putting all the

costs of every death penalty case into those executed (see Florida); d) many more such problems, or even worse. (2)

2) MORE PROTECTION FOR INNOCENTS

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.

Innocents are more protected because of enhanced due process, enhanced incapacitation and enhanced deterrence. (3)

Anti death penalty folks claim that 130 "innocents" have been released from death row, nationally. Fact checking easily uncovers this as a scam. Study reviews have found that 70-83% of those claims are not credible. Possibly 25 "actual" innocents have been identified and released from death row. (4)

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

There is overwhelming proof that living murderers harm and murder, again. Executed ones don't.

3) 16 recent studies find for DETERRENCE

16 recent studies, inclusive of their defenses, find for death penalty deterrence. No surprise. Life is preferred over death, death is feared more than life. (5)

There is a constant within all jurisdictions -- negative consequences will always deter some - a truism.

NOTE: Repeal proponents bring up that many death penalty states have higher murder rates than non death penalty states. That has nothing to do with the deterrent effect failing, as fully explained to them and you in a previous email. (6)

Whether a jurisdiction has high murder rates or low ones, rather rising or lowering rates, the presence of the death penalty will produce fewer net murders, the absence of the death penalty will produce more net murders.

An analogy. Consider smoking. Whether a jurisdiction has high smoking rates or low ones, or rising or lowering rates, the knowledge of medical problems from smoking will produce fewer net smokers, the absence of any medical problems from smoking would produce more net smokers.

4. STRONG PUBLIC SUPPORT

80% death penalty support, for specific capital murders, such as mass murder, serial murders, rape/murders, terrorism, etc. (6)

-- 82% in the US favor executing Saddam Hussein, In Great Britain: 69%, France: 58%, Germany: 53%, Spain: 51%, Italy: 46%. , Le Monde (France) , 12/06

-- 81% support Timothy McVeigh's execution - "the consensus of all major groups, including

men, women, whites, nonwhites, "liberals" and "conservatives." 16% oppose (Gallup 5/2/01).

-- 85% of liberal Connecticut supported serial/rapist murderer Michael Ross' "voluntary" execution. (Quinnipiac 1/12/05)

-- 79% support death penalty for terrorists (4/26/2007 New York State poll)

-- 78% of Nebraskans support death penalty for "heinous crimes." 16% opposed. 76% opposed legislation to abolish. MPB Public Affairs Poll, 2/14/08)

Most quoted polls wrongly poll for murder, not capital murders. The death penalty is only an option in capital cases. Possibly, 10% of all murder cases are death eligible. Those are the only cases relevant to death penalty polling.

5) THE LEAST ARBITRARY PUNISHMENT

The US death penalty is likely the least arbitrary and capricious criminal sanctions in the US. About 60,000 murders qualified for a death penalty eligible trial, since 1973. 8000 murderers were so sentenced or 13% of those eligible. Based upon pre trial, trial, appellate and clemency/commutation realities and that high percentage (13%) of receiving the maximum sentence (absent mandatory sentences) the death penalty must be the least arbitrary and capricious sanction.

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Respectfully submitted, Dudley Sharp, Justice Matters
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Houston, Texas

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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

- 1) "LFC Fiscal Error: Death Penalty Repeal - For Senate Judiciary Committee Record" email to Senate, 3/9/2009 6:11:28 P.M. Central Daylight Time
- 2) "Cost Savings: The Death Penalty: For Senate Judiciary Committee Record", email to Senate, 3/9/2009 4:45:21 P.M. Central Daylight Time
- 3) "Death Penalty: More Protection for Innocents" NM, email to Governor Richardson, legislature and media, 3/4/2009 2:49:23 P.M. Central Daylight Time
- 4) "The death row 130 "innocents" scam" NM, email to Governor Richardson, legislature and media, 3/4/2009 1:36:11 P.M. Central Standard Time
- 5) "The Death Penalty is a Deterrent - 16 Recent Studies", NM, email to Governor Richardson, legislature and media on 3/4/2009 1:31:35 P.M. Central Daylight Time
- 6) "Death Penalty and Deterrence: Let's be clear" NM, email to Governor Richardson,

legislators and media on 3/4/2009 1:52:09 P.M. Central Standard Time

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Dana Strommen

From: Sharpjfa@aol.com

Sent: Monday, March 23, 2009 9:20 AM

Subject: Death Penalty, Deterrence & Murder Rates: Let's be clear

To: Governors. Legislators, Attorneys General and Media throughout the US

From: Dudley Sharp, Contact info below

Death Penalty, Deterrence & Murder Rates: Let's be clear
by Dudley Sharp, Justice Matters, 0309

There is a constant within all jurisdictions -- negative consequences will always deter some. Whether a jurisdiction with high murder rates or low ones, rather rising or lowering rates, the presence of the death penalty will produce fewer net murders, the absence of the death penalty will produce more net murders.

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).

An analogy. Consider smoking. Whether a jurisdiction has high smoking rates or low ones, rather rising or lowering rates, the knowledge of medical problems from smoking will produce fewer net smokers, the absence of any medical problems from smoking would produce more net smokers.

It is the same for all prospects of a negative outcome - they all deter some.

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/2000/08a.html](http://www.aim.org/publications/aim_report/2000/08a.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.

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.

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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Dana Strommen

From: Sharpjfa@aol.com
Sent: Wednesday, March 25, 2009 4:38 AM
Subject: Support for the death penalty: A Brief

To: Governors. Legislators, Attorneys General and Media throughout the world

From: Dudley Sharp, Contact info below

Support for the death penalty: A Brief
Dudley Sharp, contact info below

Full review in FOOTNOTE

1) COST SAVINGS

Reasonable and responsible protocols, currently in use, will produce a death penalty which will cost less or no more than LWOP.

Example: Virginia executes in 5-7 years; 65% of those sentenced to death have been executed; 15% of their death penalty cases are overturned. With the high costs of long term imprisonment, a true life sentence will be more expensive than such a death penalty protocol.

Most cost studies suffer from major problems, such as a) not crediting the death penalty for allowing plea bargains to a true life sentence (\$300,000 to \$1 million savings or more, for each plea); 2) not including geriatric care for life sentences (cost of \$60,000-\$90,000/year/inmate); c) deceptively inflating costs of executions, based upon putting all the costs of every death penalty case into those executed (see Florida); d) many more such, as the recent Maryland cost study have even worse problems.

2) MORE PROTECTION FOR INNOCENTS

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.

Innocents are more protected because of enhanced due process, enhanced incapacitation and enhanced deterrence.

Anti death penalty folks claims that 130 "innocents" have been released from death row, nationally. Fact checking easily uncovers this as a scam. Study reviews have found that 70-83% of those claims are not credible. Possibly 25 "actual" innocents have been identified and released from death row.

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

There is overwhelming proof that murderers murder, again.

3) DETERRENCE

16 recent studies, inclusive of their defenses, find for death penalty deterrence. No surprise. Life is preferred over death, death is feared more than life.

There is a constant within all jurisdictions -- negative consequences will always deter some - a trusim. Whether a jurisdiction has high murder rates or low ones, rather rising or lowering rates, the presence of the death penalty will produce fewer net murders, the absence of the death penalty will produce more net murders.

An analogy. Consider smoking. Whether a jurisdiction has high smoking rates or low ones, or rising or lowering rates, the knowledge of medical problems from smoking will produce fewer net smokers, the absence of any medical problems from smoking would produce more net smokers.

4. STRONG PUBLIC SUPPORT

80% death penalty support, for specific capital murders, such as mass murder, serial murders, rape/murders, terrorism, etc.

-- 82% in the US favor executing Saddam Hussein, In Great Britain: 69%, France: 58%, Germany: 53%, Spain: 51%, Italy: 46%. , Le Monde (France) , 12/06

-- 81% support Timothy McVeigh's execution - "the consensus of all major groups, including men, women, whites, nonwhites, "liberals" and "conservatives." 16% oppose (Gallup 5/2/01).

-- 85% of liberal Connecticut supported serial/rapist murderer Michael Ross' "voluntary" execution. (Quinnipiac 1/12/05)

-- 79% support death penalty for terrorists (4/26/2007 New York State poll)

-- 78% of Nebraskans support death penalty for "heinous crimes." 16% opposed. 76% opposed legislation to abolish. MPB Public Affairs Poll, 2/14/08)

Most quoted polls wrongly poll for murder, not capital murders. The death penalty is only an option in capital cases. Possibly, 10% of all murder cases are death eligible. Those are the only cases relevant to death penalty polling.

5) THE LEAST ARBITRARY PUNISHMENT

The US death penalty is likely the least arbitrary and capricious criminal sanctions in the US. About 60,000 murders qualified for a death penalty eligible trial, since 1973. 8000 murderers were so sentenced or 13% of those eligible. Based upon pre trial, trial, appellate and clemency/commutation realities and that high percentage (13%) of receiving the maximum sentence (absent mandatory sentences) the death penalty must be the least arbitrary and capricious sanction.

6) Review of any more topics upon request

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