



# The Myth of Deterrence: Death penalty does not reduce homicide rate

DEATH NO MORE

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In theory, the death penalty saves lives by staying the hand of would-be killers. The idea is simple cost-benefit analysis: If a man tempted by homicide knew that he would face death if caught, he would reconsider.

But that's not the real world. The South executes far more convicted murderers than any other region yet has a homicide rate far above the national average. Texas' murder rate is slightly above average, despite the state's peerless deployment of the death penalty. If capital punishment were an effective deterrent to homicide, shouldn't we expect the opposite result? What's going on here?

Human nature, mostly. Murder is often a crime of passion, which by definition excludes the faculties of reason. The jealous husband who walks in on his wife and another man is in no position to deliberate rationally on the consequences of killing his rival. The convenience store robber who chooses in a split-second to shoot the clerk has not pondered the potential outcomes of pulling the trigger.

People overtaken by rage, panic or drunkenness should be brought to justice, of course, but they are hardly paragons of pure reason, and it's unreasonable to assert that they consider the possibility of a death sentence when committing their crimes.

Too distant a threat

Even premeditated killers don't expect to be executed. And for good reason. Statistics show that a homicidal gangster is far more likely to die at the hands of his fellow thugs than the hands of the state. As economist and *Freakonomics* author Steven Levitt writes, "No rational criminal should be deterred by the death penalty, since the punishment is too distant and too unlikely to merit much attention."

Well, then, just speed up the appeals process, some say. But the appeals process has already been shortened as much as possible without being reckless. This at the same time that a steady stream of DNA exonerations have raised important questions about investigative tactics once thought to be foolproof.

Is it worth the risk of killing innocent people on the unproven theory that it would result in fewer innocents dying via homicide?

This year, this newspaper reversed its longstanding support of the death penalty because the process is deeply flawed and irreversible. Among the moral, legal and practical reasons for our stance is the absence of hard evidence that capital punishment prevents murder.

Some recent studies purport to show that executions actually deter murders. These studies have been analyzed by others and found to be fatally flawed – "fraught with numerous technical and conceptual errors," as Columbia Law professor and statistics expert Jeffrey Fagan testified to Congress. One Pepperdine study touted last month on the *Wall Street Journal* op-ed pages found that a national decline in the murder rate correlated with executions. But that study links two broad sets of numbers and leaps to a simple conclusion.

Inconclusive at best

The devil really is in the lack of details. The national murder rate has been declining for a decade and a half – in states with and without the death penalty. But the drop has been faster in states that reject capital punishment. At best, evidence for a deterrent effect is inconclusive, and shouldn't officials be able to prove that the taking of one life will undoubtedly save others? They simply have not met that burden of proof, and it's difficult to see how they could.

The only murders the death penalty unarguably deters are those that might have been committed by the executed. But we shouldn't punish inmates for what they *might do*. Besides, society has an effective and bloodless means of protecting itself from those who have proved themselves willing to murder. It's called life without benefit of parole. In a previous editorial, we called this "death by prison."

Granting the state the power of life and death over its citizens requires something far more solid and certain than mere guesswork.

## MURDER RATES AND THE DEATH PENALTY

Nationally, the murder rate is 5.7 murders per 100,000 people.

### **Most per capita executions, Murder rate**

Oklahoma, 5.8

Texas, 5.9

Delaware, 4.9

Virginia, 5.2

Missouri, 6.3

- The 10 states with the lowest murder rates have collectively executed 11 people since 1976. That's only 1 percent of all executions carried out by states since the death penalty resumed.
- Nine of the 10 states with the highest murder rates in the country have the death penalty.

SOURCES: Death Penalty Information Center; FBI

**Coming next Sunday:** The race of murder victims seems to be a major factor in whether their killers are executed.