

# THE DEATH PENALTY: TIME TO REASSESS?

## *Life Imprisonment — An Equally Effective Alternative*

**E**ach day, it sometimes seems, we are reminded that violent crime is a terrible fact of modern life. News stories and popular culture are filled with accounts of brutal crimes, innocent victims and incomprehensible suffering.

The challenge for society is to find a way to respond to capital crimes in a way that effectively satisfies three important needs:

- The need to punish the offender for committing a horrible crime;
- The need to provide some meaningful closure for the victim's family; and
- The need to protect society against future violent crimes.

In recent years, America increasingly has sought to address those needs through capital punishment. We have witnessed more death penalty executions in the last five years than in the previous 20 years combined. As the number of executions grows, public scrutiny intensifies. Today, 25 years after the U.S. Supreme Court reinstated the death penalty, America finds itself compelled to ask: ***Is capital punishment the best way to achieve retribution, closure and safety?***

### ***A Better Alternative Exists***

Capital punishment has always been complex and controversial, and in a pluralistic society, people will always be divided on the issue. While a majority of people support the death penalty, there remains strong opposition even more entrenched by new documentation of widespread errors in its application.

Use of the death penalty raises tough moral, legal, philosophical and political questions that often elicit emotionally charged responses. It is essential, however, that we strive to view the issue objectively and dispassionately, especially as new evidence suggests that some of the common and long-held assumptions about capital punishment are untrue.

***Equally important is the fact that a guaranteed life sentence with no possibility of parole is an equally effective alternative to the death penalty.*** Currently available as a sentencing option in 33 of the 38 death-penalty states — including Ohio, where it has been on the books since 1995 — life in prison without parole is just as effective as the death penalty in several ways:

- It punishes offenders by taking away their freedom and offering them no hope of release or reprieve for the rest of their lives.
- It provides closure to victims' families by delivering punishment that is firm and final.
- It protects society from additional violent crimes by locking up offenders until they die.

From a public policy perspective, the life in prison without parole option also has two significant advantages over the death penalty:

#### ***1. It's less costly to society than the death penalty.***

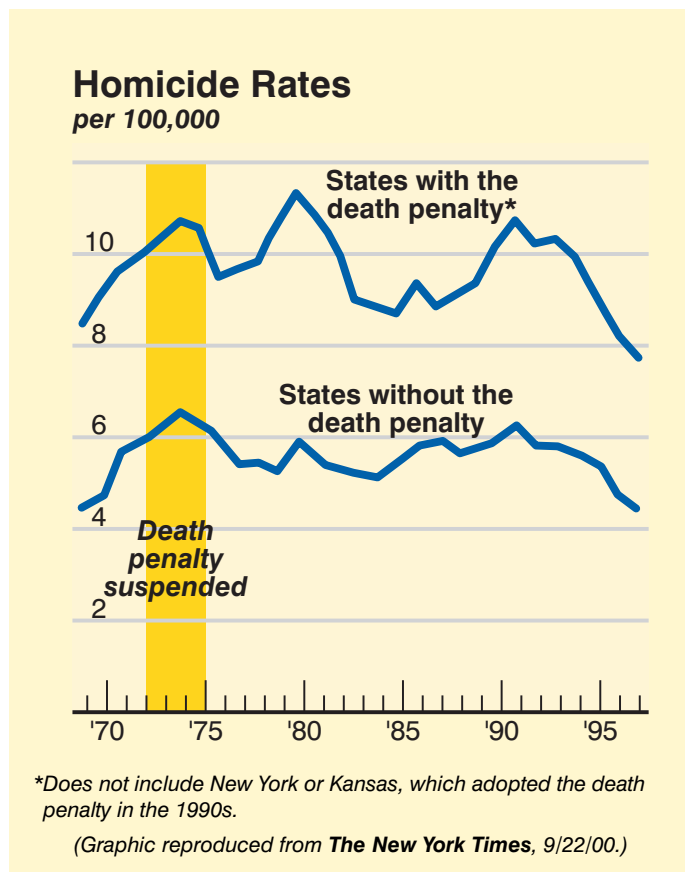
Including the cost of prosecuting the case and working through the full appeals process, the cost of capital punishment is on average 4-6 times more expensive than the cost of life in prison. As an alternative to the death penalty, life in prison without parole frees up tax dollars that can be used for more productive, beneficial and life-affirming purposes.

2. *It ensures that no innocent person will ever be put to death by the state.* As difficult as it may be for our judicial system to acknowledge, there are many reasons that an innocent person could be convicted — and executed — for a crime he or she did not commit. And the evidence clearly shows that this has occurred in dozens of cases.

There are many myths about the effectiveness of the death penalty. This flier aims to reveal the facts behind those myths. We think you'll find compelling evidence that *life in prison without parole is an effective, even desirable, alternative that makes the death penalty unnecessary.*

## Myth #1: The death penalty is an effective deterrent to crime.

One of the most common arguments in support of capital punishment is the belief that it will serve as a deterrent to violent crime. In fact, there is no scientific data to suggest the death penalty deters violent crime any more than any other form of punishment.<sup>1</sup> Consider these facts:



- Ten of the 12 states that do not have capital punishment have homicide rates below the national average.<sup>2</sup>
- Half of the 38 death-penalty states have homicide rates that are above the national average.<sup>3</sup>
- The average murder rate per 100,000 people in states with capital punishment is about 8 percent. In states without the death penalty, the rate is about 4.4 percent.<sup>4</sup>

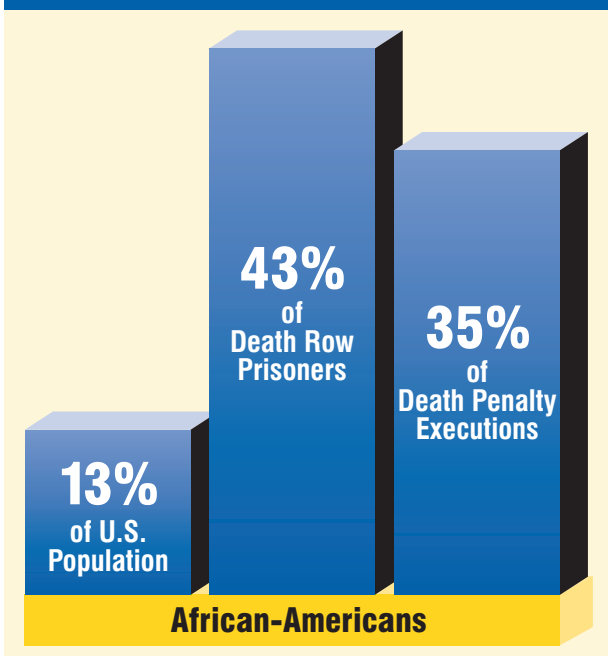
The chart in the bottom left corner of this page reveals two important facts: (1) On average, states without the death penalty have lower homicide rates than states with the death penalty, and (2) the rise and fall in homicide rates over time are generally about the same in all states, regardless of whether or not they have the death penalty, which suggests that *factors other than capital punishment spur or deter capital crimes.*

## Myth #2: The death penalty is applied in a fair and equitable manner.

The evidence suggests that factors such as race, social and economic status, level of education and location of the crime play major roles in sending some convicted killers to prison, and others to death.

**Race as a factor:** The race of the victim is a particularly strong factor in predicting whether or not the death penalty will be given. Although about 50 percent of *all* murder victims are white, the victim was white in 84 percent of *death-penalty* cases of the last 25 years. Since the U.S. Supreme Court reinstated the death penalty in 1976, 11 whites have been executed for killing African-Americans, while 144 African-Americans have been executed for killing whites. African-Americans, who represent 13 percent of the U.S. population, account for 43 percent of Death Row prisoners and 35 percent of executions. Half of Ohio's Death Row inmates are African-Americans, even though African-Americans make up just 12 percent of Ohio's population.<sup>5</sup>

## Discriminatory Impact of the Death Penalty



### Economic status and court-appointed legal counsel:

The poor are disproportionately subjected to the death penalty. For example, nearly 90 percent of individuals facing death penalty charges cannot afford their own attorney.<sup>6</sup> States often assign inexperienced counsel with inadequate resources for the proper defense of indigent prisoners.

### The arbitrary nature of the death penalty:

Individuals who commit similar crimes under similar circumstances often receive widely varying sentences. Nationwide, only about one percent of defendants convicted of murder are sentenced to death.<sup>7</sup> In most cases, it is the prosecutor who makes the decision to seek the death penalty. Some prosecutors rarely seek the death penalty, while others seek it whenever possible. Still others seek the death penalty only in widely publicized cases or in response to community pressure to do so.

### Myth #3: The death penalty is less expensive than life in prison.

Many people are surprised to learn that the cost of carrying out the death penalty is substantially higher than the cost of imprisonment. The simple fact is that it costs far more to execute a person than

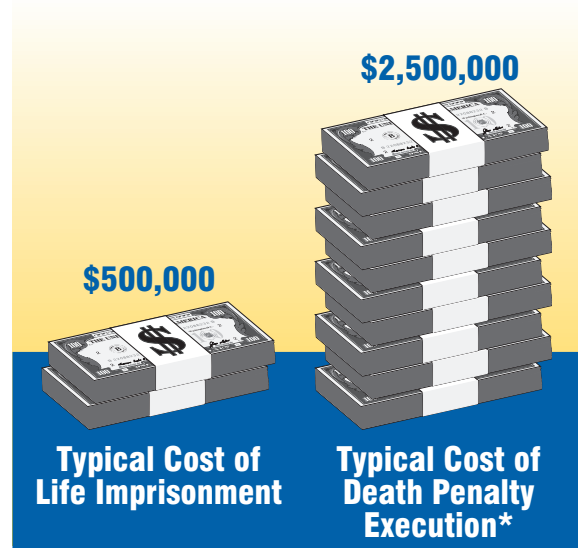
it does to keep him or her in prison for life. Here are some perspectives on the issue:

- Nationwide we spend about \$10 billion a year to implement the death penalty.<sup>8</sup>
- A single death penalty case that ends in execution typically costs between \$2 million to \$3 million. (This cost includes the cost to taxpayers to prosecute the case, which typically is several times greater than the cost of the defense, including all appeals.) In comparison, the cost of life imprisonment is about \$500,000.<sup>9</sup>
- Here in Ohio, the Wilford Berry case cost the state between 5 and 10 percent of its annual capital crime budget for five years. Life imprisonment for Berry would have cost half as much.<sup>10</sup>

### Myth #4: There is little risk of error with the death penalty.

The death penalty is a uniquely irrevocable form of punishment. Once carried out, it cannot be recalled or reversed. With such high stakes, it is imperative that any judicial system that imposes the death penalty must be absolutely infallible.

Of course, we all know that this is impossible. History shows us that imposition of the death penalty is subject to human error:



\*Includes prosecuting the case and all appeals

- According to a study published in the Stanford Law Journal, at least 350 innocent people have been sentenced to death in the United States since 1900. Of these, at least 23 ultimately were executed for crimes they did not commit.<sup>11</sup>
- Since 1973, 87 people who had been sentenced to death have been released from Death Row based on evidence of their innocence.<sup>12</sup> (One prisoner in Illinois was released just two days before he was scheduled to be executed.) While some may be tempted to say this shows that the system “works,” it’s important to note that many releases were secured by journalism and law students, film makers and volunteer attorneys.
- In January 2000, Illinois Governor George Ryan ordered a moratorium on death penalty executions in his state. Ryan’s action was precipitated largely by the fact that since 1987, 13 Death Row prisoners in Illinois had been exonerated based on DNA evidence, new witnesses or confessions from other individuals.<sup>13</sup>
- A study published in June 2000 by a law professor at Columbia University found evidence of “serious error” in 68 percent of 4,578 death sentences in the United States between 1973 and 1995.<sup>14</sup>

There are countless reasons an innocent person could be convicted of a crime he or she did not commit. Death penalty convictions often rely on eyewitness testimony that may not be reliable due to what research has shown to be common human errors in identifying suspects in highly stressful circumstances. Also problematic are convictions secured through the testimony of “jailhouse snitches” whose credibility must certainly be questioned. As long as there is a possibility that an innocent person could be killed, we should have serious reservations about the use of the death penalty — *especially when an equally effective alternative readily exists.*

## It’s Time to Reassess

More than half of the 700-plus executions that have occurred in the United States since the U.S. Supreme Court reinstated the death penalty in 1976 have occurred in the last five years. This rapid increase in application of the death penalty has focused renewed attention on exposing the myths underlying the common arguments in support of capital punishment.

The evidence clearly demonstrates that the death penalty has questionable value as a deterrent, is discriminatory and arbitrary in its application, is more costly than life imprisonment, and is subject to human error.

***A guaranteed life sentence with no possibility for parole offers an alternative that can just as effectively satisfy society’s need for retribution, closure and safeguarding against future violent crimes. Furthermore, the life in prison without parole option is less costly to society and ensures that no innocent person will be put to death.***

This fair, reasonable and effective alternative is reason enough for Ohio to reconsider its need for a death penalty statute.

## Information Sources

<sup>1</sup> Catholic Conference of Ohio

<sup>2</sup> *New York Times*, September 22, 2000

<sup>3</sup> *New York Times*, September 22, 2000

<sup>4</sup> Amnesty International USA

<sup>5</sup> National Urban League; NAACP Legal Defense and Education Fund

<sup>6</sup> National Urban League

<sup>7</sup> Amnesty International USA

<sup>8</sup> Amnesty International USA

<sup>9</sup> *Newsweek*, May 29, 2000; National Coalition to Abolish the Death Penalty

<sup>10</sup> Amnesty International USA

<sup>11</sup> Ohioans to Stop Executions

<sup>12</sup> *Newsweek*, May 29, 2000

<sup>13</sup> Widely reported in numerous media reports.

<sup>14</sup> James S. Liebman, Jeffrey Fagan and Valerie West, *A Broken System: Error Rates in Capital Cases, 1973-1995*, June 2000

**For more information, contact TBD**