

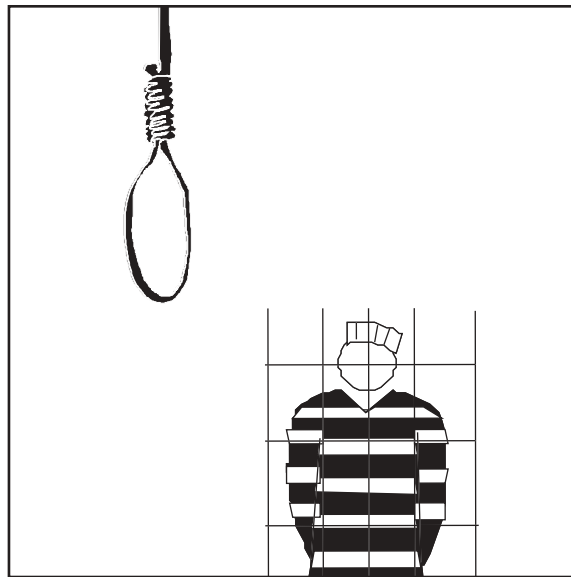
WISCONSIN SHOULD HAVE THE DEATH PENALTY

JOHN McADAMS

The positions people sometimes take on political issues seem driven more by emotion than reason, and nothing better illustrates this than views on the death penalty. This policy seems to tap basic social values, but in ways that are more symbolic than substantive.

Without denying for a moment that this is true of both sides, we are especially concerned with the minority who oppose the death penalty. Their basic desire—not wanting to see people killed—seems laudable enough. The problem comes when they fixate on this issue. While it is laudable not to want to kill people, very few death penalty opponents are pacifists—which means they have no objection to killing people if the reason is good enough.

Further, the criminal justice system does nasty things to people other than killing them. Yet death penalty opponents seem to have few qualms about imprisonment (at least, when the death penalty is being discussed).¹ Wanting to avoid the evils associated with execution, they give the impression that the choice is between a deeply flawed system of capital punishment and a pristine system of imprisonment.



And by denying, out of hand, the possibility that executions deter murder, they evade thinking about the possibility that refusing to execute is a form of “reckless endangerment”—a way of risking the lives of innocents because one is squeamish about executing guilty murderers.

How many innocents on death row?

That death row is absolutely full of people who are in fact innocent, and really never did the crimes they are charged with, is a constant mantra of anti-death penalty activists. Liberal Supreme Court Justice John Paul Stevens, just to pick one case out of hundreds, told the American Bar Association’s Thurgood Marshall Award dinner that “That evidence is profoundly significant, not only because of its relevance to the debate about the wisdom of continuing to administer capital punishment, but also because it indicates that there must be serious flaws in our administration of criminal justice.”²

The most widely publicized list of “innocents” is that of the Death Penalty Information

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Center (DPIC). As of late February 2006, it lists 123 people.³ That sounds like an appallingly large number, but even a casual examination of the list shows that many of the people on it got off for reasons entirely unrelated to being innocent. Back in 2001, I analyzed the list when it had 95 people on it. By the admission of the Death Penalty Information Center, 35 inmates on their list got off on procedural grounds. Another fourteen got off because a higher court believed the evidence against them was insufficient. If the higher court was right, this would be an excellent reason to release them, but it's far from proof of innocence.⁴

Interestingly, prosecutors retried thirty-two of the inmates designated as "innocent." Apparently prosecutors believed these thirty-two were guilty. But many whom prosecutors felt to be guilty were not tried again for a variety of reasons, including the fact that key evidence had been suppressed, witnesses had died, a plea bargain was thought to be a better use of scarce resources, or the person in question had been convicted and imprisoned under another charge.

More detailed assessments of the "Innocents List" have shown that it radically overstates the number of innocent people who have been on death row. For example, the state of Florida had put on death row twenty-four inmates claimed, as of August 5, 2002, to be innocent by the DPIC. The resulting publicity led to a thorough examination of the twenty-four cases by the Florida Commission on Capital Crimes, which concluded that in only four of the twenty-four cases was the factual guilt of these inmates in doubt.⁵

Examinations of the entire list have been no more favorable. For example, a liberal federal district judge in New York ruled, in *United States v. Quinones*, that the federal death penalty is unconstitutional. In this case, the court admitted that the DPIC list "may be over-inclusive" and, following its own analysis, asserted that for 32 of the people on the list there was evidence of "factual innocence."⁶ This hardly represents a ringing endorsement of the work of the Death Penalty Information

Center. In academia, being right about a third of the time will seldom result in a passing grade.

Other assessments have been equally negative. Ward A. Campbell, Supervising Deputy Attorney General of the State of California, reviewed the list in detail and concluded that:

[I]t is arguable that at least 68 of the 102 defendants on the List should not be on the list at all—leaving only 34 released defendants with claims of actual innocence—less than 1/2 of 1% of the 6,930 defendants sentenced to death between 1973 and 2000.⁷

There is, of course, a degree of subjectivity in all such assessments. The presence of "reasonable doubt" does not make a person factually innocent (although it's an excellent reason to acquit them), and circumstances might conspire to make a factually innocent person appear to even an objective observer to be guilty "beyond a reasonable doubt." The key thing to remember is that the numbers produced by DPIC are "outliers"—grossly inflated. Indeed, staffers of the Senate Judiciary Committee have pretty much dismantled the DPIC list.⁸

Taking at face value the claims of the activists is about as bad as taking at face value the claims of the National Rifle Association about the number of Americans who save themselves from bodily harm because they own and carry guns, or the claims of NARAL about how many "back alley abortions" would result from overturning *Roe v. Wade*.

Have Any Innocents Been Executed?

Worse than putting an innocent person on death row (only to have him later exonerated) would be to actually execute an innocent person. But death penalty opponents can't point to a single innocent person known to have been executed for the last 35 years. They do make claims, however.

In the 1980s, two academics who strongly opposed the death penalty (Hugo Adam Bedau and Michael Radelet) claimed that of 7,000 people executed in the United States in

the 20th century, 23 were innocent.⁹ However, Bedau and Radelet produced only one case since the early 1960s where they claimed an innocent man had been executed—that of one James Adams.¹⁰ But even this one case was quite weak. Steven J. Markman and Paul G. Cassell, in a *Stanford Law Review* article, took Bedau and Radelet to task for “disregard of the evidence,” and for putting a spin on the evidence that supported their thesis of Adams’ innocence. Markman and Cassell (writing in 1988) concluded that there is, “no persuasive evidence that any innocent person has been put to death in more than twenty-five years.”¹¹ In response, Bedau and Radelet admitted to the *Chronicle of Higher Education* that (in the words of the *Chronicle’s* reporter) “some cases require subjective analysis simply because the evidence is incomplete or tainted.” They admitted this was true of all 23 cases that they reported.¹²

The most sober death penalty opponents have apparently given up claiming solid evidence of any innocent person executed in the modern era. Indeed Barry Scheck, cofounder of the Innocence Project, was featured speaker at the Wrongfully Convicted on Death Row Conference in Chicago (November 13-15, 1998), and was interviewed by the *Today Show*. Schenk was asked by Matt Lauer, “Since 1976, 486 people have been executed in this country. Any doubt in your mind that we’ve put to death innocent people?” Scheck responded “Well, you know, I—I think that we must have put to death innocent people, but if you’re saying to me to prove it right now, I can’t.”¹³

Nothing stops death penalty opponents from making all sort of claims about innocent people being executed. But in the rare cases when their claims can actually be tested, they turn out to be false. Consider, for example, the

case of Roger Keith Coleman, who was tried for a rape/murder, and finally executed by the State of Virginia in 1992. An essay still on the site of the Death Penalty Information Center discusses the case at considerable length, and clearly leaves the impression that Coleman must be innocent. After attacking all the evidence against Coleman, the essay claims “official misconduct that has left the case against Roger Coleman in shreds” and goes on to claim:

... there is dramatic evidence that another person, Donney Ramey, committed the murder. For one thing, a growing number of women in the neighborhood have reported being sexually assaulted by

Ramey in ways strikingly similar to the attack on Wanda McCoy. For another, one of these rape victims, Teresa Horn, has courageously signed an affidavit stating that Ramey told her he had killed Mrs. McCoy. He threatened to do the same to Ms. Horn.¹⁴

Someone reading the Death Penalty Information Center website, and lacking due skepticism toward the assertions there, would doubtless conclude

that Coleman was innocent. Unfortunately, the State of Virginia allowed DNA testing of key evidence in 2005, using technology unavailable in 1992, and proved decisively that Coleman was in fact guilty as charged.¹⁵ The credibility of anti-death penalty activists when making claims of innocence—whether for those on death row or those who have been executed—is tenuous at best.

How many innocents on death row are acceptable?

At this point, death penalty opponents will argue that it doesn’t matter if their numbers are inflated. Any innocent people on death row, or even one innocent person executed,

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they airily reply, it's "too many." But most public policies have some negative consequences, and indeed often these involve the death of innocent people—something that can't be shown to have happened with the death penalty in the modern era. Just wars kill a certain number of innocent noncombatants. When the FDA approves a new drug, some people will quite likely be killed by arcane and infrequent reactions. The magnitude of these consequences matters. The public, in fact, seems to get this.¹⁶

Is the death penalty more error-prone than lesser punishments?

Death penalty opponents prattle constantly about how corrupt the criminal justice system is where the death penalty is concerned, citing poor legal representation, lack of access to DNA evidence, racial bias, reliance on suspect eyewitness testimony and jailhouse "snitches" and so on. The problem with their argument is that doing away with the death penalty would not cause any of these problems to go away.

Wrongful imprisonment receives vastly less attention than wrongful death sentences, but the available evidence suggests that the former is vastly more likely, in any particular case, than the latter. Currently, the Innocence Project website lists 174 persons who have been exonerated on the basis of hard DNA evidence.¹⁷ But the vast majority were not sentenced to death. In fact, only 15 death row inmates have been exonerated due to DNA evidence.¹⁸ Since the Innocence Project receives 150-200 new requests for aid per month, and will not touch a case unless DNA evidence might decisively exculpate the prisoner, these exonerations must be merely the tip of the iceberg.

Thus there is every reason to believe that the rate of error is much lower for the death penalty than for imprisonment. There is much more extensive review by higher courts, much more intensive media scrutiny, cadres of activists trying to prove innocence, and better quality counsel at the appeals level (and

increasingly at the trial level) if a case might result in execution. Consider, for example, the following quote from an article about how prosecutors in Indiana are tending more and more to ask for life imprisonment and not the death penalty because of the cost of getting an execution:

Criminal rules require a capital defendant to have two death penalty certified attorneys, which, if the defendant is indigent, are paid for on the public dime. Other costs that might be passed onto taxpayers are requirements that the accused have access to all the tools needed to mount a fair defense, including mitigation experts, investigators, and DNA experts. Because the stakes are so high in a death penalty case, the courts believe a defendant is entitled to a super due process.¹⁹

Thus, death penalty opponents who tout life imprisonment as much cheaper than execution are actually touting a system that cuts corners on protecting the innocent.²⁰

Is life without parole an adequate substitute?

Death penalty opponents claim that a sentence of "life without parole" is a good substitute for execution, acceptable to a large proportion of the American public. And indeed, when you ask the public whether they favor the death penalty or life imprisonment for murder, they split fairly evenly—although when asked about a specific murderer like Saddam Hussein or Timothy McVeigh, a robust 70-80% majority wants execution.²¹

The problems, however, are numerous. In the first place, people in prison kill other inmates. The killing of a convicted pedophile priest in a Massachusetts prison by a man already sentenced to life without parole underlined the point: in states without the death penalty such a killing is essentially a "freebie."²² The apparent motive in this case was hatred of homosexuals.²³

Then there is the fact that prisoners escape from prison, and either kill again, or escape recapture. Among prisoners on death row in 2004, 44 committed the capital offense when

on escape, and 101 committed the offense when incarcerated.²⁴

But the most fundamental problem with “life without parole” is that the same liberal activists who don’t like the death penalty don’t really like long prison sentences either. If the death penalty is abolished, this will quickly become obvious. For example, the European Community, considered a model of enlightenment by anti-death penalty folks, has produced a “Green Paper” contemplating outlawing life sentences in the EU. According to the document:

There are grounds for considering whether life imprisonment should be abolished or modified in the Union.

Abolishing life imprisonment would be justified from the point of view of the objective of re-educating and rehabilitating the offender. As is well known, a person’s conduct can change during imprisonment and the absence of all hope of ever being released will not stimulate efforts at reintegration. . . . Life imprisonment could be replaced by fixed-term sentences. For the most serious crimes, associated with certain personal characteristics, which represent a manifest threat, consideration could be given to the possibility of reducing the penalty to a fixed period of, say, 20 to 30 years, the offender’s situation being regularly reviewed, or ensuring that the situation of offenders sentenced to unlimited terms come up for periodic review.²⁵

This problem is exacerbated by the tendency of sociologists, psychologists, and political activists to find excuses for murderers. If they can get a particular excuse accepted, the killer may get sprung. In 1990, for example, Ohio Governor Richard F. Celeste freed from prison 25 women because they were supposedly victims of “battered woman syndrome.” They had killed or assaulted—and not in self

defense—husbands or boyfriends who had supposedly subjected them to physical or psychological abuse.²⁶ Governor Pete Wilson in California accepted the same excuse from two female murderers in 1993,²⁷ and governors in Illinois,²⁸ Maryland,²⁹ and Massachusetts³⁰ followed suit with similar actions. So what will the next excuse be? One author notes some of the candidates:

Traditional heat of passion is not the only mitigation to intentional murder. Social, external factors have started to make their way into the legal world through expanding ideas of criminal defenses. Such defenses include: the cultural evidence defense, battered spouse, mob defense,

Black rage, urban psychosis, steroid-induced psychosis, anti-abortion psychosis, and financial, emotional, and work-related pressure syndrome.³¹

It was Wisconsin’s own Federal Judge Lynn Adelman who, in November 1999, overturned the conviction of a teen-age girl who killed another girl because she wanted her jacket. Adelman ruled that the jury should have been

allowed to hear the defense argument that the girl’s violent family and violent neighborhood had produced an “urban psychosis.”³²

Thus a jury that sentences a murderer to “life without parole” really has no guarantee that the offender will remain in prison for life. If a liberal legislature, or a liberal governor with the power of commutation or a liberal activist court decides that life in prison is “inhumane,” or that some “disorder” or “psychosis” caused the crime, the murderer will go free.

And indeed, if some executive feels it politically expedient to let violent criminals go, a “life without parole” sentence is worthless. In 1999, President Bill Clinton gave clemency

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to sixteen Puerto Rican terrorists who had mounted 130 bomb attacks that killed six people and injured 130 in the 1970s and early 1980s.³³ There was speculation that he did so to help the senatorial election prospects of his wife among Puerto Rican voters, but the precise motive is less important than the fact that he did it.

Deterrence

The strongest argument in favor of the death penalty is the claim that executions deter murders. If this is the case, then opposition to the death penalty becomes almost impossible to defend. One is willing to allow the killing of innocent victims because of one's squeamishness about executions.

Death penalty opponents uniformly insist that executions don't deter murders, and do so based on simplistic analyses that couldn't possibly be published in a reputable social science journal. Thus it is a bit bizarre to find the *New York Times* publishing an article entitled "States With No Death Penalty Share Lower Homicide Rates."³⁴ In the first place, states that "have the death penalty" often execute few or no murderers. In the second place, the analysis assumes that both groups of states are similar except for the fact that some happen to have the death penalty and others don't. But this is implausible, if for no other reason than that a high murder rate will create a political demand for executions. States which, for reasons of culture and/or demography have an inherently higher murder rate will be most likely to deal with that fact by using the death penalty.

Indeed, murder rates are determined by a variety of social and demographic variables, and these must be properly controlled in order to get sensible results. Thus there is no avoiding advanced econometric models if one seriously wants to examine this issue. Even limiting our attention to well-done studies, until recently there were more studies failing to show a deterrent effect of the death penalty than showing such an effect.³⁵ Yet since the 1970s there have been a number of studies, including some of the best ones, that do show a deterrent effect.³⁶ But this situation has

changed markedly in recent years, as "post moratorium" data (from the years following the interruption of executions in the 1970s), and data reflecting the increased numbers of executions in the 1990s have become available. A new generation of studies provides strong evidence that executions deter murder. For example, Dale O. Cloninger and Roberto Marchesini examined the effect of a "judicial experiment." An appellate court ruling temporarily stopped virtually all executions in Texas during 1996 and early 1997. Cloninger and Marchesini statistically modeled murder rates during the years before and after the moratorium, and found that this judicial intervention resulted in about 200 additional homicides.³⁷

In a more recent study, Cloninger and Marchesini used the same methods to model the effect of the commutation of the death sentences of all death row inmates in Illinois by Governor George Ryan in January 2003. They estimated that this executive act produced about 150 additional murders.³⁸

Hashem Dezhbakhsh and Joanna Shepherd used a much broader "judicial experiment," the moratorium imposed by the Supreme Court in the 1970s when the Court invalidated all existing death penalty laws. Again, the temporary lack of a death penalty pushed murder rates upward.³⁹

H. Naci Mocan and R. Kaj Gittings used a dataset that included the entire 6,143 death sentences between 1977 and 1997, and a model that controlled for a large number of factors that might influence homicide rates, and found that each execution decreased homicides by about five. Further, each commutation *increased* homicides by about five. Each additional inmate removed from death row for reasons other than commutation increased murders by about one.⁴⁰

Hashem Dezhbakhsh and Paul H. Rubin, both of Emory University, with Joanna M. Shepherd (Clemson University) used county-level data—an important point, since there can be large within-state variations in the use of the death penalty. They found that each execu-

tion deters 18 murders—with margin of error of plus or minus ten.⁴¹ Paul R. Zimmerman, a Staff Economist with the Federal Communications Commission, estimated a model that allowed for mutual effects between the murder rate and the probability of execution. Such “mutual effects” might occur if authorities execute more murderers in response to an increased murder rate, or if murderers kill more witnesses in response to an increased probability of execution. Zimmerman’s analysis finds that each execution deters, on average, about 14 murders per year, although the effect could be as little as three and as large as 25.⁴²

Joanna M. Shepherd of Clemson University used monthly data on homicides to take into account the possibility that potential offenders update their assessments of execution risk frequently. She found that each execution deters three murders. She also found that executions deter “crimes of passion”—sometimes claimed to be undeterrable—and further that long waits on death row before execution result in more murders. Specifically, each increase of 2.75 years on death row for an inmate results in an additional murder.⁴³

Further, studies by Zhiqiang Liu, James A. Yunker; a study by Ekelund, Jackson, Ressler and Tollison; and a study by Ekelund, Jackson, Ressler and Tollison all likewise show a significant deterrent effect of executions.⁴⁴ All of these studies have survived peer review and appeared in reputable scholarly journals.

Of course, there are newer studies showing no deterrent effect,⁴⁵ but the body of solid, peer-reviewed econometric studies showing that executions deter murders is becoming pretty impressive.

If the deterrent effect of the death penalty becomes a well-established fact of social science—and we are quickly converging on that conclusion—opposition will increasingly become morally unsupportable. The opponents will be viewed as people willing to allow innocent victims to be murdered because of their personal squeamishness. Today, they have to be viewed as people who will *risk* the lives of innocent victims. But the evidence is moving us to a point where it is clear they are willing to *sacrifice* the lives of innocent victims.

Notes

1. As we shall see, when the death penalty is off the table, they don't much like putting people in prison either.
2. "Stevens Voices Doubts About Death Penalty." *Chicago Daily Law Bulletin* 8 Aug. 2005.
3. "Innocence and the Death Penalty." 28 Feb. 2006. <http://www.deathpenaltyinfo.org/article.php?scid=6&did=110>.
4. McAdams, John. "It's good, and We're Going to Keep It: A Response to Ronald Tabak." *Connecticut Law Review* 33.3 (2001): 828-831.
5. <http://www.floridacapitalcases.state.fl.us/Publications/innocentsproject.pdf>.
6. 205 F. Supp. 2d 256; 2002 U.S. Dist. LEXIS 11631.
7. <http://www.prodeathpenalty.com/DPIC.htm>
8. MINORITY VIEWS ON S. 486, Senate Judiciary Committee, 2002 archived at: <http://mcadams.posc.mu.edu/blog/MINORVIEWS.PDF>.
9. Bedau, Hugo Adam and Michael Radelet. *In Spite of Innocence*. Boston: Northeastern University Press, 1992.
10. Op. cit. pp. 5-10.
11. Markman, Steven J. and Paul G. Cassell. "Protecting the Innocent: A Response to the Bedau-Radelet Study." *Stanford Law Review* 41(1988): 121-160.
12. Managhan, Peter. "Scholars' Research on Executions Adds Fuel to Death-Penalty Debate." *The Chronicle of Higher Education* 27 Jan. 1993: A8.
13. *Today Show*, 13 November 1998, transcript accessed via Lexis-Nexis.
14. Kroll, Michael. "Killing Justice: Government Misconduct and the Death Penalty." Death Penalty Information Center. 29 Jan. 2006. <http://www.deathpenaltyinfo.org/article.php?scid=45&did=529>.
15. "Test confirms guilt of Virginia man executed in 1992." Reuters dispatch. 12 Jan. 2006.
16. A Gallup survey of May 2-5, 2005 asked "How often do you think a person has been executed under the death penalty who was, in fact, innocent of the crime . . . do you think this has happened in the past five years, or not?" Fifty-nine percent of the sample said it has happened (Roper Center Accession Number 1624919, accessed via Lexis-Nexis). Yet a robust two-to-one majority of Americans favors the death penalty in the standard Gallup Poll question.
17. 29 Jan. 2006. <http://www.innocenceproject.org/index.php>.
18. Death Penalty Information Center. 29 Jan. 2006. <http://www.deathpenaltyinfo.org/article.php?scid=6&did=110>.
19. Browning, Ron. "State mirrors national numbers showing fewer capital cases." *The Indiana Lawyer* 1 Dec. 2004.
20. Some of the extra cost of execution is "dead weight loss" imposed by (for example) virtually endless appeals.
21. See, for example a Gallup/CNN/USA Today poll of November 11-13, 2005 (Roper Center Accession Number 1638156) and a CBS News poll of June 9, 2001 (Roper Center Accession Number 0385756), both accessed via Lexis-Nexis.
22. Death penalty opponents will claim that certain administrative measures, such as solitary confinement, can be used to punish such cases. Such punishments seem an absurdly inadequate response to murder.
23. *The Boston Globe*. 26 Aug. 2003: p. A1.
24. Bonczar, Thomas P. and Snell, Tracy L. "Capital Punishment, 2004." *Bureau of Justice Statistics Bulletin*. 28 Feb. 2006. <http://www.ojp.usdoj.gov/bjs/pub/pdf/cp04.pdf> These numbers do not include other inmates who committed equally heinous crimes, but could not be put on death row because the state lacked the death penalty, nor those who were not caught. Of course, not all had been originally imprisoned on a charge that merited the death penalty.
25. GREEN PAPER: on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union (Brussels, 30.04.2004) archived at: http://mcadams.posc.mu.edu/blog/EU_life.pdf.
26. *Los Angeles Times*. 31 Dec. 1990.
27. *Los Angeles Times*. 29 May 1993.
28. *Chicago Sun-Times*. 13 May 1994.
29. *The New York Times*. 21 Feb. 1991.
30. *The Boston Globe*. 29 Apr. 1993.
31. Littman, Rachel J. "Adequate Provocation, Individual Responsibility, and the Deconstruction of Free Will." *Alb. L. Rev.* 60: 1127.
32. Adelman's ruling was overturned by a higher court. "Federal judge reverses overturned murder conviction" *The Associated Press State & Local Wire*. 14 Nov. 2000.
33. Tooley, Mark. "Left wants amnesty for Puerto Rican terrorists." *Insight on the News* 15.35 (20 Sep. 1999).
34. September 22, 2000.
35. For a list of such studies showing no deterrent effect of executions, see McAdams, John. "It's Good, and We're Going to Keep It: A Response to Ronald Tabak." *Connecticut Law Review* 33.3: 838. Note that virtually all such studies show a deterrent effect of imprisonment, refuting the notion that murder is a crime that inherently can't be deterred.

36. See Lester, David. "Executions as a Deterrent to Homicides." *Psychological Reports* 44 (1979): 562. Lester, David. "Deterring Effect of Executions on Murder as a Function of Number and Proportion of Executions." *Psychological Reports* 45 (1979): 598. Layson, Stephen K. "Homicide and Deterrence: A Reexamination of the United States Time-Series Evidence." *Southern Economic Journal* 52 (1985): 68-69. Yunker, James A. "Testing the Deterrent Effect of Capital Punishment: A Reduced Form Approach." *Criminology* 19 (1982): 626, 627, 644-645. Cloninger, Dale O. "Capital Punishment and Deterrence: a Portfolio Approach." *Applied Economics* 24 (1992): 635-645. Ehrlich, Isaac. "The Deterrent Effect of Capital Punishment: A Question of Life and Death." *American Economic Review* 65 (1975): 397-998, 416. Ehrlich, Isaac. "Capital Punishment and Deterrence: Some Further Thoughts and Additional Evidence." *Journal of Political Economy* 85 (1977): 741-88. Wolpin, Kenneth I. "Capital Punishment in England: A Summary of Results." *American Economic Review* May (1978): 422-27.; see also Cover, Perry, James and Thistle, Paul D. "Times Series, Homicide, and the Deterrent Effect of Capital Punishment." *Southern Economic Journal* 54 (1988): 615.
37. Cloninger, Dale O. and Roberto Marchesini. "Execution and Deterrence: A Quasi-Controlled Group Experiment." *Applied Economics* 33.5 (2001): 569-576.
38. Execution Moratoriums, Commutations and Deterrence: The Case of Illinois (unpublished paper, archived at: http://mcadams.posc.mu.edu/blog/Illinois_Study.pdf).
39. "The Deterrent Effect of Capital Punishment: Evidence from a 'Judicial Experiment'." *Economic Inquiry* (forthcoming).
40. "Getting off Death Row: Commuted Sentences and the Deterrent Effect of Capital Punishment." *Journal of Law and Economics* Oct. 2003. LXVI: 453-478.
41. "Does Capital Punishment Have a Deterrent Effect? New Evidence from Postmoratorium Panel Data." *American Law and Economics Review* 5. 2 (2003): 344-375.
42. "State Executions, Deterrence, and the Incidence of Murder." *Journal of Applied Economics* 7. 1(2004): 163-194.
43. "Murders of Passion, Execution Delays, and the Deterrence of Capital Punishment." *Journal of Legal Studies* 33 (2004): 283-321.
44. Liu, Zhiqiang. "Capital Punishment and the Deterrence Hypothesis: Some New Insights and Empirical Evidence." *Eastern Economic Journal* 30.2 (Spring 2004). Yunker, James A. "A New Statistical Analysis of Capital Punishment Incorporating U.S. Postmoratorium Data." *Social Science Quarterly* 82.2 (Jun. 2001). Ekelund, Robert B. Jr, Jackson, John D, Ressler, Rand W, and Tollison, Robert D. "Marginal Deterrence and Multiple Murders." *Southern Economic Journal* 72.3 (Jan.2006) : 521-541.
45. See for example Sorensen, Jan, Wrinkle, Robert, Brewer, Victoria and Marquart, James. "Capital Punishment and Deterrence: Examining the Effect of Executions in Texas." *Crime & Delinquency* Oct. (1999): 481-493.