

**Frequently Asked Questions About the Death Penalty**  
**New Yorkers Against the Death Penalty**  
[www.nyadp.org](http://www.nyadp.org)  
[info@nyadp.org](mailto:info@nyadp.org)

**Is the death penalty cheaper than life in prison?**

No.

*"Elimination of the death penalty would result in a net savings to the state of at least tens of millions of dollars annually, and a net savings to local governments in the millions to tens of millions of dollars on a statewide basis."*

*Joint Legislative Budget Committee of the California Legislature, 09/9/99*

- Total cost of death penalty 38% greater than total cost of life without parole sentences. (Indiana Criminal Law Study Commission, January 10, 2002)
- Since its return to New York in 1995, \$100 million has been spent. The New York Daily News estimates that before the first execution takes place, \$238 million will be spent.
- In addition to the funds required to try death penalty cases, the New York Department of Correctional Services spent \$1.3 million to construct New York's death row for 12 inmates and it pays nearly \$300,000 per year to guard the unit. (New York Law Journal, April 30, 2002)

NYADP advocates that the money spent on the death penalty should be spent on **crime prevention programs and victims' assistance programs**, both of which are severely under-funded.

**How many death row inmates have been found innocent?**

- Over 111 people have been found innocent of the crime they were sentenced to death for.
- False confessions, mistaken eyewitness accounts, incompetent counsel and jailbird snitches are often the cause of an innocent person's conviction. While DNA has saved many innocent lives, most crimes do not have DNA that can be tested.
- New York City Mayor Michael Bloomberg, a Republican, reiterated his opposition to capital punishment. Bloomberg noted, "The death penalty I've always had a problem with, because too many times in the past you've seen innocent people incarcerated and, tragically, every once in a while they've been executed. And until you can show me that the process never would ever convict somebody that later on we find out was innocent of a crime, murder is murder no matter who does it, and I think we as a society can afford to incarcerate people." (New York Times, July 31, 2003).
- In New York, the five men convicted in the Central Park Jogger rape case were found innocent, although they confessed to the crime. At the time of the crime Donald Trump took out a full-page ad to say that he wished New York had the death penalty for these men.

**How does race affect a death penalty trial?**

Almost all people accused of death-eligible crimes are impoverished and must rely on court-appointed lawyers to defend them at trial. Minority defendants may be represented by lawyers who are not only incompetent but also openly bigoted. At a

minimum, a lack of cultural sensitivity to other ethnic groups may affect their ability to prepare adequately for the case.

- The case of Wilburn Dobbs is one of at least five in Georgia where defense attorneys referred to their own clients during the trial by racial slurs, including "nigger."
- Melvin Wade was sentenced to death in California after being represented by an attorney who used defamatory language against African Americans, including Wade, and who asked that his own client be sentenced to death during the penalty phase of the trial.

African Americans account for 43 per cent of the USA's current 3,700 death row inmates and about 34 per cent of prisoners executed since 1977. However, the identity of the murder victim that provides the clearest indication that race remains an ingredient of capital sentencing.

Since 1976, blacks have been six to seven times more likely to be murdered than whites, with the result that blacks and whites are the victims of murder in about equal numbers. Yet, **80 per cent of the more than 840 people put to death in the USA since 1976 were convicted of crimes involving white victims, compared to the 13 per cent who were convicted of killing blacks.**

#### **Race and New York's Death Penalty**

Using data supplied by the New York capital defenders, the center for law and justice reviewed the race of each victim in all first degree murder cases in New York from 1995 -2001. The center compared the race of the victim(s) in all potentially capital murder cases to the race of the victim in cases where a prosecutor filed a notice of intention to seek the death penalty.

Although only 32% of first degree murder cases from 1995-2001 involved a white victim, 60% of the cases in which a prosecutor sought the death penalty involved a white victim. In contrast, while 43% of the first degree murder cases involved a black victim, only 36% of the cases in which a prosecutor sought the death penalty involved a black victim. And 24% of cases involved a Latino victim, yet only 14% of the cases where the death penalty was sought involved a Latino victim.

Excerpted from Amnesty International.

#### **How does poverty affect a capital case?**

- Ninety-five percent of defendants charged with capital crimes are indigent and cannot afford their own attorney to represent them. They are forced to use inexperienced, underpaid court-appointed attorneys.
- US Supreme Court Justice Ruth Bader Ginsberg said she has "never seen a death penalty case on appeal before this court in which the defendant was well represented at trial."
- Some defendants in capital cases have been represented by attorneys who were drunk or sleeping during the trial. George McFarland, sentenced to death in 1992, was represented by an attorney who admitted sleeping during parts of the trial: "I'm 72 years old. I customarily take a short nap in the afternoon." The trial judge commented that: "The Constitution says everyone's entitled to the attorney of their choice. The Constitution does not say the lawyer has to be awake."

Excerpted from Amnesty International

### **What does religion say about the death penalty?**

- Most major religious groups support abolition of the death penalty.
- These include: American Baptist Churches in the USA, Disciples of Christ, The Episcopal Church, Evangelical Lutheran Church in America, Mennonite Church, Orthodox Church in America, Presbyterian Church USA, Reformed Church in America, Unitarian Universalist Association, United Church of Christ, The United Methodist Church, and the US Catholic Conference.

### **Is the death penalty a deterrent to violent crime?**

- Former Attorney General Janet Reno, numerous studies, and the American Society of Criminologists agree that the death penalty has no deterrence value.
- Janet Reno stated at a Justice Department news briefing in January 2000 that: "I have inquired for most of my adult life about studies that might show that the death penalty is a deterrent, and I have not seen any research that would substantiate that point."

### **How does a defendant's sexual orientation affect a capital trial?**

- "Sending a homosexual to the penitentiary certainly isn't a very bad punishment for a homosexual," the prosecutor told the jury in the sentencing phase of Calvin Burdine. (Burdine's attorney did not object.) Burdine, a homosexual, was on trial for killing his lover. Burdine's attorney was seen sleeping during parts of the trial and referred to homosexuals as "fairies" and "queers."
- For gay defendants, their sexuality, is used to portray them as "inhuman" and "predatory." Dick Deiter, Executive Director of the Death Penalty Information Center explains, "There's no legal formula for who gets the death penalty. And anyone who seems outside the bounds of what's acceptable is more likely to end up being executed."

Information excerpted from Amnesty International and *Queer on Death Row*, published in the Village Voice

### **Are most people in favor of the death penalty?**

- As evidence of innocence and racial bias in the application of the death penalty come to light, support for the death penalty is steadily falling.
- In fact, a majority of New Yorkers support alternatives to the death penalty. In a poll released by Quinnipiac University in March 2003, fifty-seven percent of New York residents favor the death penalty compared with 37 percent who oppose it. But when asked to choose between the death penalty or life without parole, people in New York favor life without parole, 53 percent to 38 percent.
- Nationally, 48 percent of Americans favor the death penalty compared with 44 percent who prefer life without parole, according to the poll, which has a margin of error of plus or minus 2.9 percent.

### **Does the death penalty bring closure to victims?**

- Murder Victims Families for Reconciliation and The Journey of Hope are victims' advocacy groups that oppose the death penalty. People who have lost

- loved ones to murder founded these organizations. They provide support to family members of murder victims. Many of their members tour the country, explaining their opposition to the death penalty.
- The founder of The Journey of Hope, Bill Pelke, explains: *"The death penalty has absolutely nothing to do with healing. [It] just continues that cycle of violence and creates more murder victim family members. We become what we hate. We become killers."*
  - The speakers' stories contrast starkly with the myths often used to support the death penalty, such as its perceived cathartic power for victims. After an execution, many victims are left with the same gnawing pain and anger they hoped the execution would ease.

### **Isn't New York's death penalty different from other states?**

New York's death penalty was reinstated in 1995. It forbids the execution of juveniles.

- New York also maintains a capital defenders' office for people charged with capital crimes. However, the funding for this office has been slashed and remains severely underfunded.
- The Capital Punishment Research Initiative, at SUNY-Albany's School of Criminal Justice, compared New York's death penalty to the death penalty in Illinois. The study identified "aspects of New York's capital punishment law and criminal justice practices that in our view are most urgently in need of attention in light of the Illinois Commission's recommendations." The study compared police and pretrial investigation practices, eligibility for capital punishment, prosecution's selection for capital punishment, imposition of sentence, and funding.
- The study's conclusion reads: "The Illinois Commission labored for two years in producing its 85 recommendations regarding the administration of capital punishment in that state... At the conclusion of its report... observed specifically that: 'the Commission was unanimous in the belief that no system, given human nature and frailties, could ever be devised or constructed that would work perfectly and guarantee absolutely that no innocent person is ever again sentenced to death.' This same warning that death penalty systems inevitably expose innocent people to the risk of conviction and execution applies with equal force to New York's capital punishment law." [italics added]
- New York's death penalty is applied arbitrarily. Upstate prosecutors are four times more likely to seek the death penalty than downstate prosecutors.
- There are currently six men on death row. One man, Nicholas McCoy, was sentenced to death in 2000 for the brutal murder of his co-worker, Victoria Peyman. McCoy's mother was a prostitute who strangled his father in the children's bedroom when McCoy was two years old. His first foster father repeatedly beat McCoy because he beat his head against the wall to try to get to sleep.
- This past year Attorney General John Ashcroft ordered New York District Attorneys to seek the death penalty in 10 cases. All of these cases involved an African-American or Latino defendant.
- Hundreds of organizations have passed resolutions calling for a moratorium on executions in New York, including the New York City Council and the Albany Common Council.

### **Does the U.S. execute mentally retarded people?**

- The Supreme Court ruled in June 2002 (*Atkins v. Virginia*) that it was unconstitutional to execute the mentally retarded.
- According to Amnesty International, over 60 people diagnosed as mentally ill or with mental retardation have been executed in the United States. This is in violation of international standards of justice.
- The United Nations Committee on Crime Prevention and Control recommended in 1988 that "persons suffering from mental retardation or extremely limited mental competence" should not be executed.
- Mario Marquez had the adaptive skills of a 7 year-old. His trial counsel testified at a clemency hearing that he did not present any evidence of Mario's mental retardation because of a legal flaw in the Texas death penalty statute. Marquez was executed on January 17, 1995.

Information excerpted from Amnesty International and the Death Penalty Information Center.

### **Does the U.S. execute the severely mentally ill?**

- There is no death penalty statute in the US that forbids the execution of the severely mentally ill. The execution of those with mental illness or "the insane" is clearly prohibited by international law. Virtually every country in the world prohibits the execution of people with mental illness.
- The U.N. safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the U.N. Economic and Social Council resolution of May 25, 1984, states: "...nor shall the death sentence be carried out... on persons who have become insane."

Information excerpted from Amnesty International

### **If a criminal doesn't get the death penalty, won't s/he be paroled?**

- Many states, including New York, offer life without the possibility of parole as an alternative to a death sentence.

### **Do other countries use capital punishment?**

- More than half the world's countries have abolished the death penalty, including Russia, South Africa, all of Western and most of Eastern Europe.
- Abolition of the death penalty is a requirement for admission to the European Union.
- The US is only one of two countries (Iran) that continues to execute juveniles. There are 81 juvenile offenders currently on death row in the USA.

Information excerpted from the ACLU

### **How can I become involved?**

- Visit [www.nyadp.org](http://www.nyadp.org).