

Vote No on Death Penalty Referendum

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This November, Wisconsin residents will have the opportunity to vote on an advisory referendum regarding the reenactment of the death penalty, which has been prohibited in the state for more than 150 years. Before making any definitive decisions on this emotion-packed issue, it's crucial to consider the facts that surround the death penalty.

These considerations include the following:

- the substantial financial costs to taxpayers at all levels of government,
- the lost opportunity resulting from the significant commitment of resources needed to operate the death penalty,
- the fallibility of the criminal justice system, and
- the failure of the death penalty as a deterrent.

Costs

Many believe a jury should have the ability to consider the death penalty in the most heinous cases. But, the costs of having that choice are considerable. Death penalty costs begin with the construction of an extensive infrastructure to be in place *before any* death penalty case is even charged. States have incurred astronomical costs on death penalty cases, often referred to as capital cases, sometimes without a single execution.

Capital cases generate considerably higher costs per case than non-capital homicide cases. The total average cost to the justice system has been estimated to be between \$1 million and \$3 million, (though some costs have run as high as \$7 million) for each capital case, compared to approximately \$500,000 for similar non-capital cases.

A New Jersey Policy Perspective report concluded that New Jersey's death penalty has cost the taxpayers \$253 million since its reinstatement in 1982. Since then, there have been 197 capital trials and 60 death penalty convictions, with 50 of those convictions ultimately reversed. There have been **no** executions in New Jersey since the death penalty's reinstatement. The study found that these cost increases come from the following factors:

- Up to five times more pre-trial motions;
- Up to five times longer pre-trial defense investigations;
- Up to 80 times longer for jury selections;
- An average of 30 more court days per trial; and
- 10 times greater likelihood that a case will proceed to trial.

In addition, the cases require two defense lawyers instead of one, a larger jury pool, and longer and more complicated appeals.

In response to bi-partisan concern with the death penalty legislation, the 2006 New Jersey Legislature enacted a death penalty moratorium and created a Death Penalty Commission to report its findings to the governor regarding all aspects of the death penalty as currently administered.

A 2005 Los Angeles Times Study found that the California death penalty system costs taxpayers more than \$114 million a year beyond the cost of keeping an individual locked up for life. In California, it costs approximately \$90,000 more a year to house an inmate on death row, than in the general prison facilities.

In 2003, the Kansas Legislative Division of Post Audit advised state legislators that capital cases are 70 percent more costly than comparable non-capital cases, with a median cost of \$1.26 million.

Experience at the county government level

In Wisconsin, indigent defendants who do not qualify for State Public Defender representation are entitled to an attorney at county expense. County death penalty costs can be significant and may dramatically change a county's financial situation because of a county's much smaller tax base.

A 2001 study in the journal of *Advances in Economic Analysis & Policy* found death penalty convictions caused increased county expenditures by approximately \$2 million for each case. The estimated increase in taxes and expenditures is significant for large and small counties alike, amounting to more than \$1.6 billion over a 15-year period.

- In Quitman County, Mississippi (population 10,500), taxes were raised three times in the 1990s, and the county was forced to borrow hundreds of thousands of dollars to provide attorneys for two men in a capital murder case. This one criminal case essentially bankrupted the county.
- During the early 1990s, two capital trials in Jefferson County, Florida caused significant debt. The costs forced significant cuts in the county budget, such as a freeze on employee raises and a 20 percent reduction in the library budget.
- Jasper County, Texas ran up a huge bill seeking capital-murder convictions of three men accused of killing James Byrd Jr., who was dragged to death in a 1998 case that attracted national attention. (Two were sentenced to death; the third received life in prison.) The cost was more than \$1.02 million, creating a substantial strain on the county's \$10 million annual budget, and forced a 6.7 percent increase in property taxes over two years to pay for the trial.
- In Yakima, Washington, the county has incurred costs topping \$1.1 million over the past year and a half for a potential capital murder case, and the 2005 case is still months away from trial.

It's true that a price cannot be put on justice. But a price can be placed on programs with a proven track record for improving safety to the community. A state must choose where to place its limited resources. Are we ready to fund the death penalty by reducing government support for health care, education and emergency services?

Criminal justice issues

While cost is a big component of the death penalty, it's not the only consideration. The criminal justice system is fallible. Since 1976, 230 defendants have been granted clemency for humanitarian reasons, including doubts about their guilt and problems with the criminal justice process. Since 1973, 123 defendants in 25 states were released from death row due to evidence of innocence.

Adding a DNA requirement does not protect against wrongful convictions or against the execution of innocent persons. DNA evidence does not always say "who did it." DNA may show that a person was present at the scene of an offense, but not when or under what circumstances. Even when DNA evidence correctly identifies the person who committed a crime, it does not identify the degree and nature of the crime. Recently, the Florida Supreme Court released a person who had been sentenced to death after being convicted with the use of DNA evidence.

Finally, the death penalty does not have a deterrent effect. Statistics from states that have the death penalty show that it does not reduce crime or deaths attributable to homicides. In fact, states such as Texas and Oklahoma that have a death penalty and some of the highest execution rate also have high homicide.

It is important to consider facts and not just emotion on this important issue.