People are asking...Tough questions about the death penalty

1. Aren't "innocent" people really just getting off on a technicality?
2. Has an innocent person ever actually been executed?
3. Doesn't DNA evidence protect innocent people from being executed?
4. Does Life Without Parole really mean people will be in jail for the rest of their lives?
5. Why should I be saddled with the burden of paying to keep someone in jail for the rest of his life?
6. If the death penalty is so expensive, why don't we just shorten the appeals process?
7. How is it "unfair" to punish someone who is guilty of committing a horrible crime?
8. Doesn't the death penalty deter crime?
9. Don't we owe it to the family of the victim?
10. Don't we need the death penalty to protect police officers?
11. Don't prosecutors need the death penalty in order to obtain plea bargains?
12. Doesn't the Bible say the death penalty is allowed?

Q: I hear about innocent people being freed from death row. But are they really innocent? Didn't they just get off on a technicality?

Contrary to popular belief, it is extremely difficult to have a conviction overturned. For those innocent people lucky enough to be exonerated, it took extraordinary resources outside of the normal channels for the evidence to be heard. Volunteer lawyers, students, family, and friends often had to fight lengthy legal battles to finally have their day in court.

It is more likely that an execution will go *forward* on a technicality -- because legal barriers prevented the courts from hearing new evidence, or because a lawyer missed a filing deadline or didn't make an objection at the right time.

Consider the Missouri case of Joe Amrine. The prosecutor actually told the judge that even if Amrine was factually innocent, he should be executed because the legal process should not drag on and on. Courts actually refused to hear evidence of Armine's innocence because they said his original trial lawyer should have known the information -- and therefore it didn't count as "new." It took 18 years for Amrine to be exonerated and freed.

Q: Isn't it true that there is no evidence that an innocent person has been executed in modern times?

We simply do not know how many people have been executed in the United States. Death Penalty lawyers hardly have enough resources to work on the cases of live clients. There have

been a number of people executed that have strong claims of innocence, but few lawyers can afford to spend the time and resources trying to prove the innocence of an executed inmate when there are so many people with strong claims of innocence still living on death row.

Here is what we do know: 138 people have been exonerated from death rows around the country. In many of those cases, the exoneration came after a long legal battle and thanks to the extraordinary efforts of people working outside the system. One Illinois man, who came within *forty-eight hours* of execution, was freed thanks to the investigative work of undergraduate students at Northwestern University. Any one of those people could have just as easily been executed.

Q: I understand that innocent people were sentenced to death in the past. But now that there's DNA, doesn't that take care of the problem?

Unfortunately, DNA evidence only exists in about 15% of criminal cases. While DNA has uncovered many of the flaws in our nation's death penalty -- including incompetent lawyers, misconduct, and more -- DNA can't, by itself, solve those problems. Thanks to DNA, we now know that evidence we once thought was reliable can often be wrong, including eyewitness identification, confessions, jailhouse informants, and other forensics.

But in most cases, there is simply no DNA to test, so most cases must continue to rely on those other kinds of evidence. More importantly, any scientific evidence is only as good as the human beings conducting the tests -- and human beings can't be right 100% of the time. Even with scientific advances, there is simply no way to create a death penalty system that always gets it right.

Q: We often hear of people sentenced to life who are later released from prison and commit more crimes. Does life without parole really exist?

Life without parole means exactly what it says: The offender stays behind bars for the rest of his life, with no chance of ever being paroled. Life without parole sentences are different from "Life" sentences, which do offer parole.

Many states didn't begin using life without parole until recently, which is why there are so many stories about people being sentenced to "life' and then getting out on parole. Nowadays, every state that has the death penalty also offers life without parole as a sentencing option.

Q: Why should the taxpayers have to bear the cost of incarcerating someone for the rest of their lives? Isn't it cheaper just to put someone to death?

Not at all. In fact, taxpayers get stuck with a much greater tab when the death penalty is an option. The death penalty process is more complicated because a life is on the line. But the system's finality, complexity ,and length drive costs through the roof and divert precious resources from crime prevention, victims' services, and other community needs.

Study after study has found that death sentences cost up to 10 times as much as locking someone away for life. The most rigorous cost study to date found that a *single death sentence* in Maryland costs *almost $2 million more* than the cost of a comparable non-death penalty case, even including the cost of prison terms. Other states, including Florida, North Carolina, California, New York, New Jersey, Kansas, Indiana and Texas have found the same thing.

Not a single state cost study has found the death penalty to be cheaper than life without parole.

Q: Aren't appeals the real cause of the high costs of the death penalty? Wouldn't it be cheaper to just shorten the appeals process?

Not at all. Much of the extra costs are incurred during the initial trial. Death penalty trials are among the most complicated and time-consuming cases a court faces. They involve more lawyers, more witnesses, more experts, a longer jury selection process, more pre-trial motions, an entirely separate trial to determine the sentence, and countless other expenses -- all of which rack up exorbitant costs even before a single appeal is filed. Moreover, all these costs are imposed even in cases where the prosecutor sought the death penalty but the jury chose a different punishment.

Most of the extra costs are legally mandated to reduce the risk of executing an innocent person. That means that states that want to shorten the appeals process in order to reduce costs would be Constitutionally prohibited from using the death penalty.

Q: You say the death penalty is "arbitrary" and "unfair." But if someone committed a crime, isn't it *fair* that they are punished?

The U.S. Supreme Court has said that if the death penalty is applied arbitrarily, it cannot be applied at all. Yet in reality, the system is little better than a lottery: an accomplice gets death while the actual trigger-man is spared; a convenience store robbery gone awry results in execution, but a methodical serial killer receives a life sentence; two equivalent crimes occur on different sides of the county line, and only one is sentenced to die.

Unfortunately, these disparities are the norm, not the exception. Factors like geography, access to a decent lawyer, race, and gender often determines who lives and who dies.

Q: Death penalty opponents say that capital punishment isn't a deterrent to crime, while proponents say it is. Which is it?

There is no evidence that the death penalty deters crime any more or less than any other harsh punishments like life in prison without parole.

If the death penalty deterred, one would expect the South -- where executions are frequent -- to have lower murder rates than other regions, and for states with the death penalty to be safer than those states without. In fact, the opposite is true. regions with the most executions also have the highest murder rates. States without the death penalty have lower murder rates than those with the death penalty.

Quite simply, there is simply no correlation between murder rates and the death penalty.

Q: Don't we owe it to the victims and their families to execute the person who took their loved one away?

Many murder victims' families do not support the death penalty. Some oppose it in principle, while others feel that the system is extremely harmful to survivors because it is so cumbersome and lengthy while failing to provide them with the resources they really need to move forward.

We owe it to the families of murder victims to have in place a system of justice that is swift and sure, and to provide them with meaningful services to help them heal and recover from the trauma of murder. The death penalty has proven time and again to fail on every one of those counts.

Q: Don't we at least need the death penalty to protect police officers?

No. The death penalty has not proven to save lives of law enforcement. In fact, there are more police officers killed in the south than any other region in the country, even though the south is home to the majority of executions in the U.S.

The best way to keep police officers safe is to ensure proper staffing, equipment, and training to officers and to implement crime prevention programs that actually work. The death penalty is a distraction from those concrete needs, diverting millions of law enforcement dollars that could be used to keep police and the public safe.

Q: Don't prosecutors need the death penalty to secure plea bargains?

Using the death penalty as a billy club to secure plea bargains is not only unnecessary, it's dangerously close to being considered unethical behavior for lawyers. Many murders are resolved by plea bargains -- whether or not the death penalty is even on the table.

The threat of death also increases the risk of convicting the innocent. There are documented cases of innocent people confessing to crimes they did not commit simply to avoid a death sentence. These people often spent years in prison before the truth was uncovered.

Life and death are too important to be used as a bargaining chip.

Q: Doesn't the Bible say "an eye for an eye"? Isn't the Death Penalty expressly allowed by the Bible?



Photo by Scott Langley

EYE FOR AN EYE?

Many supporters argue that capital punishment is supported by biblical text. Oftentimes, they will quote the Old Testament, which states "And if any mischief follow, then thou shalt give life for life, Eye for eye, tooth for tooth, hand for hand, foot for foot, Burning for burning, wound for wound, stripe for stripe."[1]

It's true that the Old Testament commanded the death penalty, not only for murder, but for at least a dozen other crimes including adultery[2], homosexuality[3], prostitution[4], witchcraft[5], working on the Sabbath[6], and rebellion against parents[7].

However, the Bible actually says varying things that may bear on the death penalty and offers different approaches toward the issue. The New Testament does not have any specific teachings about Capital Punishment, other than Jesus' message of love, forgiveness, mercy, and redemption.

During his Sermon on the Mount, Jesus appears to soften the Mosaic law when he states "Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth: But I say unto you, That ye resist not evil: but whosoever shall smite thee on they check, turn to him the other also."[8]

The fact is, the Bible is ambiguous when dealing with capital punishment, and it is simply not enough to pull Bible verses out of their historical or theological context.

PROTECTING THE ACCUSED

In fact, even though the Old Testament authorized use of the death penalty, it is important to note that this was coupled with severe limits on its actual implementation. The result was that Mosaic Law provided more protection to the accused during a capital trial than modern American law does.

For example, Jewish law required two eyewitnesses to convict someone of a capital crime, a requirement not practiced today. Moreover, the law required those two eyewitnesses to help carry out the execution if the accused was convicted.[9]

Click here to read an essay by a former lawyer and current death row chaplain arguing against any biblical justification of America's death penalty system.

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[1] Exod. 21.23-25 KJV

[2] Lev. 20.10 KJV

[3] Lev. 20.13 KJV

[4] Deut. 22.21 KJV

[5] Lev. 20.27 KJV

[6] Exod. 35.2 KJV

[7] Exod. 21.17 KJV

[8] Matt. 5.38-39 KJV

[9] Thomas Berg, *Religious Conservatives and the Death Penalty*, William and Mary Bill of Rights Journal, Vol. 9, No. 1, Dec. 2000