

Back-to-Back CLE Series: Understanding Your Ideological Opposite
A collaboration of Beyond Civility and the Cincinnati Bar Association

Death Penalty

Joe and David Switch Sides

Hear Hamilton County Prosecutor Joe Deters and Ohio Justice & Policy Center Director and Assistant Chase Law Professor David Singleton argue the other side's position on controversial death penalty issues.

About the Back-to-Back CLE Series

This series features informative “reverse debates” that challenge high-profile advocates on opposite sides of major public policy issues to demonstrate their understanding of the other side’s point of view by explaining it until the other party concedes that they couldn’t have said it better themselves. This format promotes civil, informative discussion of hotly contested issues by trading fact and clear explanation for a typical debate’s spin and obfuscation. The goal?... to learn and practice techniques for communicating around and through our differences; communicating to hear and be heard, to understand and be understood, to show and receive respect, and to find new and better ways to solve problems...together.

Joe Deters Bio

Joe is a lifelong Cincinnati and 1975 graduate of St. Xavier High School. In 1979, Joe graduated from the University of Cincinnati, and then the University of Cincinnati College of Law in 1982.

Joseph Deters began his career in public service in 1982 as an Assistant Hamilton County Prosecutor. He was elected to the position of Hamilton County Clerk of Courts in 1988.

In 1992, Mr. Deters returned to the Hamilton County Prosecutor's Office when he was appointed, and later that year elected, as Prosecuting Attorney of Hamilton County.

Joe Deters is now Hamilton County's longest serving Prosecuting Attorney (1992-1999 and 2005-present). Deters also served as Ohio's State Treasurer from 1999 until 2004.

He currently serves on the St. Joseph's Cemetery Board of Trustees, and has previously served on the University of Cincinnati Board of Trustees, the Ohio Organized Crime Commission, and the Southern Ohio Leukemia Foundation.

David Singleton Bio

David A. Singleton received his law degree, *cum laude*, from Harvard Law School in 1991, and his A.B. in Economics and Public Policy, *cum laude*, from Duke University in 1987. Upon graduation from law school, David received a Skadden Fellowship (the premiere public interest law fellowship in the nation) to work at the Legal Action Center for the Homeless in New York City, where he practiced for three years. He then worked as a public defender for seven years, first with the Neighborhood Defender Service of Harlem and then with the Public Defender Service for the District of Columbia.

After moving to Cincinnati in 2001, David practiced at Thompson Hine until 2002, when he became the Executive Director of the Cincinnati-based Ohio Justice & Policy Center (OJPC). OJPC provides free legal representation to prisoners and ex-offenders to help them become productive, law-abiding members of the community.

In addition to serving as OJPC's Executive Director, David is an Assistant Professor of Law at Northern Kentucky University's Salmon P. Chase College of Law, where he teaches the Constitutional Litigation Clinic. The Clinic gives third and fourth year law students the opportunity to represent OJPC clients in federal and state court proceedings. David has also taught as a Lecturer at the University of Cincinnati College of Law.

Top 10 Pros and Cons

Should the death penalty be allowed?

The **PRO** and **CON** statements below give a five minute introduction to the death penalty debate.


(Read more information about our one star ★ to five star ★★★★★ Theoretical Credibility System)

- | | |
|---|---|
| 1. Morality | 6. Cost of Death vs. Life in Prison |
| 2. Constitutionality | 7. Race |
| 3. Deterrence | 8. Income Level |
| 4. Retribution | 9. Attorney Quality |
| 5. Irrevocable Mistakes | 10. Physicians at Execution |





PRO Death Penalty	CON Death Penalty
1. Morality	
<p>PRO: "The crimes of rape, torture, treason, kidnapping, murder, larceny, and perjury pivot on a moral code that escapes apodictic [indisputably true] proof by expert testimony or otherwise. But communities would plunge into anarchy if they could not act on moral assumptions less certain than that the sun will rise in the east and set in the west. Abolitionists may contend that the death penalty is inherently immoral because governments should never take human life, no matter what the provocation. But that is an article of faith, not of fact. The death penalty honors human dignity by treating the defendant as a free moral actor able to control his own destiny for good or for ill; it does not treat him as an animal with no moral sense."</p> <p style="text-align: right;">Bruce Fein, JD ★★★★★ <i>Constitutional Lawyer and General Counsel to the Center for Law and Accountability</i> <i>"Individual Rights and Responsibility - The Death Penalty, But Sparingly," www.aba.org</i> <i>June 17, 2008</i></p>	<p>CON: "Ultimately, the moral question surrounding capital punishment in America has less to do with whether those convicted of violent crime deserve to die than with whether state and federal governments deserve to kill those whom it has imprisoned. The legacy of racial apartheid, racial bias, and ethnic discrimination is unavoidably evident in the administration of capital punishment in America. Death sentences are imposed in a criminal justice system that treats you better if you are rich and guilty than if you are poor and innocent. This is an immoral condition that makes rejecting the death penalty on moral grounds not only defensible but necessary for those who refuse to accept unequal or unjust administration of punishment."</p> <p style="text-align: right;">Bryan Stevenson, JD ★★★★★ <i>Professor of Law at New York University School of Law</i> <i>"Close to Death: Reflections on Race and Capital Punishment in America," from Debating the Death Penalty: Should America Have Capital Punishment? The Experts on Both Sides Make Their Best Case</i> <i>2004</i></p>

2. Constitutionality

PRO: "Simply because an execution method may result in pain, either by accident or as an inescapable consequence of death, does not establish the sort of 'objectively intolerable risk of harm' [quoting the opinion of the Court from *Farmer v. Brennan*, 511 U. S. 825, 842, 846 (1994)] that qualifies as cruel and unusual... Kentucky has adopted a method of execution believed to be the most humane available, one it shares with 35 other States... Kentucky's decision to adhere to its protocol cannot be viewed as probative of the wanton infliction of pain under the Eighth Amendment... Throughout our history, whenever a method of execution has been challenged in this Court as cruel and unusual, the Court has rejected the challenge. Our society has nonetheless steadily moved to more humane methods of carrying out capital punishment."




[Baze v. Rees](#) (529 KB) 
US Supreme Court, in a decision written by Chief Justice John G. Roberts
Apr. 16, 2008

CON: "Death is... an unusually severe punishment, unusual in its pain, in its finality, and in its enormity... The fatal constitutional infirmity in the punishment of death is that it treats 'members of the human race as nonhumans, as objects to be toyed with and discarded. [It is] thus inconsistent with the fundamental premise of the Clause that even the vilest criminal remains a human being possessed of common human dignity.' [quoting himself from *Furman v. Georgia*, 408 U.S. 238, 257 (1972)] As such it is a penalty that 'subjects the individual to a fate forbidden by the principle of civilized treatment guaranteed by the [Clause].' [quoting C.J. Warren from *Trop v. Dulles*, 356 U.S. 86, 101 (1958)] I therefore would hold, on that ground alone, that death is today a cruel and unusual punishment prohibited by the Clause... I would set aside the death sentences imposed... as violative of the Eighth and Fourteenth Amendments."


William J. Brennan, JD   
Justice of the US Supreme Court
Dissenting opinion in Gregg v. Georgia (347 KB) 
July 2, 1976

3. Deterrence

PRO: "Common sense, lately bolstered by statistics, tells us that the death penalty will deter murder... People fear nothing more than death. Therefore, nothing will deter a criminal more than the fear of death... life in prison is less feared. Murderers clearly prefer it to execution -- otherwise, they would not try to be sentenced to life in prison instead of death... Therefore, a life sentence must be less deterrent than a death sentence. And we must execute murderers as long as it is merely possible that their execution protects citizens from future murder."

[Ernest Van Den Haag, PhD](#)   
Late Professor of Jurisprudence at Fordham University
"For the Death Penalty," New York Times
Oct. 17, 1983

CON: "[T]here is no credible evidence that the death penalty deters crime more effectively than long terms of imprisonment. States that have death penalty laws do not have lower crime rates or murder rates than states without such laws. And states that have abolished capital punishment show no significant changes in either crime or murder rates. The death penalty has no deterrent effect. Claims that each execution deters a certain number of murders have been thoroughly discredited by social science research."

[American Civil Liberties Union \(ACLU\)](#) 
"The Death Penalty: Questions and Answers,"
ACLU.org
Apr. 9, 2007

4. Retribution

PRO: "Society is justly ordered when each person receives what is due to him. Crime disturbs this just order, for the criminal takes from people their lives, peace, liberties, and worldly goods in order to give himself undeserved benefits. Deserved punishment protects society morally by restoring this just order, making the wrongdoer pay a price equivalent to the harm he has done. This is retribution, not to be confused with revenge, which is guided by a different motive. In retribution the spur is the virtue of indignation, which answers injury with injury for public good... Retribution is the primary purpose of just punishment as such... [R]ehabilitation, protection, and deterrence have a lesser status in punishment than retribution."

J. Budziszewski, PhD ★★☆☆
Professor of Government and Philosophy at the
University of Texas at Austin
"Capital Punishment: The Case for Justice,"
OrthodoxyToday.org
Aug./Sep. 2004

CON: "Retribution is just another word for revenge, and the desire for revenge is one of the lowest human emotions — perhaps sometimes understandable, but not really a rational response to a critical situation. To kill the person who has killed someone close to you is simply to continue the cycle of violence which ultimately destroys the avenger as well as the offender. That this execution somehow give 'closure' to a tragedy is a myth. Expressing one's violence simply reinforces the desire to express it. Just as expressing anger simply makes us more angry. It does not drain away. It contaminates the otherwise good will which any human being needs to progress in love and understanding."

Raymond A. Schroth, SJ ★★☆☆
Jesuit Priest and Community Professor of the
Humanities at St. Peter's College
Email to ProCon.org
Sep. 5, 2008

5. Irrevocable Mistakes

PRO: "...No system of justice can produce results which are 100% certain all the time. Mistakes will be made in any system which relies upon human testimony for proof. We should be vigilant to uncover and avoid such mistakes. Our system of justice rightfully demands a higher standard for death penalty cases. However, the risk of making a mistake with the extraordinary due process applied in death penalty cases is very small, and there is no credible evidence to show that any innocent persons have been executed at least since the death penalty was reactivated in 1976... The inevitability of a mistake should not serve as grounds to eliminate the death penalty any more than the risk of having a fatal wreck should make automobiles illegal..."

Steven D. Stewart, JD ★★☆☆
Prosecuting Attorney for Clark County Indiana
Message on the Clark County Prosecutor website
accessed
Aug. 6, 2008

CON: "...Since the reinstatement of the modern death penalty, 87 people have been freed from death row because they were later proven innocent. That is a demonstrated error rate of 1 innocent person for every 7 persons executed. When the consequences are life and death, we need to demand the same standard for our system of justice as we would for our airlines... It is a central pillar of our criminal justice system that it is better that many guilty people go free than that one innocent should suffer... Let us reflect to ensure that we are being just. Let us pause to be certain we do not kill a single innocent person. This is really not too much to ask for a civilized society."

Russ Feingold, JD ★★☆☆
US Senator (D-WI)
introducing the "National Death Penalty
Moratorium Act of 2000"
April 26, 2000

6. Cost of Death vs. Life in Prison

PRO: "Many opponents present, as fact, that the cost of the death penalty is so expensive (at least \$2 million per case?), that we must choose life without parole ('LWOP') at a cost of \$1 million for 50 years. Predictably, these pronouncements may be entirely false. JFA [Justice for All] estimates that LWOP cases will cost \$1.2 million-\$3.6 million more than equivalent death penalty cases. There is no question that the up front costs of the death penalty are significantly higher than for equivalent LWOP cases. There also appears to be no question that, over time, equivalent LWOP cases are much more expensive... than death penalty cases. Opponents ludicrously claim that the death penalty costs, over time, 3-10 times more than LWOP."

Dudley Sharp ★

Director of Death Penalty Resources at Justice for All
"Death Penalty and Sentencing Information," Justice for All website
Oct. 1, 1997

CON: "In the course of my work, I believe I have reviewed every state and federal study of the costs of the death penalty in the past 25 years. One element is common to all of these studies: They all concluded that the cost of the death penalty amounts to a net expense to the state and the taxpayers. Or to put it differently, the death penalty is clearly more expensive than a system handling similar cases with a lesser punishment. [It] combines the costliest parts of both punishments: lengthy and complicated death penalty trials, followed by incarceration for life... Everything that is needed for an ordinary trial is needed for a death penalty case, only more so:

- More pre-trial time...
- More experts...
- Twice as many attorneys...
- Two trials instead of one will be conducted: one for guilt and one for punishment.
- And then will come a series of appeals during which the inmates are held in the high security of death row."

Richard C. Dieter, MS, JD ★★☆☆

Executive Director of the Death Penalty Information Center, Testimony to the Judiciary Committee of the Colorado State House of Representatives regarding "House Bill 1094 - Costs of the Death Penalty and Related Issues", Feb. 7, 2007

7. Race

PRO: "[T]he fact that blacks and Hispanics are charged with capital crimes out of proportion to their numbers in the general population may simply mean that blacks and Hispanics commit capital crimes out of proportion to their numbers. Capital criminals don't look like America... No one is surprised to find more men than women in this class. Nor is it a shock to find that this group contains more twenty-year-olds than septuagenarians. And if — as the left tirelessly maintains — poverty breeds crime, and if — as it tiresomely maintains — the poor are disproportionately minority, then it must follow — as the left entirely denies — that minorities will be 'overrepresented' among criminals."

Roger Clegg, JD ★★☆☆

General Counsel at the Center for Equal Opportunity
"The Color of Death: Does the Death Penalty Discriminate?," National Review Online
June 11, 2001

CON: "Despite the fact that African Americans make up only 13 percent of the nation's population, almost 50 percent of those currently on the federal death row are African American. And even though only three people have been executed under the federal death penalty in the modern era, two of them have been racial minorities. Furthermore, all six of the next scheduled executions are African Americans. The U.S. Department of Justice's own figures reveal that between 2001 and 2006, 48 percent of defendants in federal cases in which the death penalty was sought were African Americans... the biggest argument against the death penalty is that it is handed out in a biased, racially disparate manner."

National Association for the Advancement of Colored People (NAACP) ★

"NAACP Remains Steadfast in Ending Death Penalty & Fighting Injustice in America's Justice System," NAACP website, June 28, 2007

8. Income Level

PRO: "The next urban legend is that of the threadbare but plucky public defender fighting against all odds against a team of sleek, heavily-funded prosecutors with limitless resources. The reality in the 21st century is startlingly different... the past few decades have seen the establishment of public defender systems that in many cases rival some of the best lawyers retained privately... Many giant silk-stocking law firms in large cities across America not only provide pro-bono counsel in capital cases, but also offer partnerships to lawyers whose sole job is to promote indigent capital defense."

Joshua Marquis, JD ★★☆☆
District Attorney of Clatsop County, Oregon
*"The Myth of Innocence," Journal of Criminal Law
and Criminology
Mar. 31, 2005*

CON: "Who pays the ultimate penalty for crimes? The poor. Who gets the death penalty? The poor. After all the rhetoric that goes on in legislative assemblies, in the end, when the net is cast out, it is the poor who are selected to die in this country. And why do poor people get the death penalty? It has everything to do with the kind of defense they get. Money gets you good defense. That's why you'll never see an O.J. Simpson on death row. As the saying goes: 'Capital punishment means them without the capital get the punishment.'"

Helen Prejean, MA ★
Anti-death penalty activist and author of *Dead Man Walking*
*"Would Jesus Pull the Switch?," Salt of the Earth
1997*

9. Attorney Quality

PRO: "Defense attorneys... routinely file all manner of motions and objections to protect their clients from conviction. Attorneys know their trial tactics will be thoroughly scrutinized on appeal, so every effort is made to avoid error, ensuring yet another level of protection for the defendant. They [death penalty opponents]... have painted a picture of incompetent defense lawyers, sleeping throughout the trial, or innocent men being executed. Their accusations receive wide media coverage, resulting in a near-daily onslaught on the death penalty. Yet, through all the hysteria, jurors continue to perform their responsibilities and return death sentences."

California District Attorneys Association (CDA) ★
*"Prosecutors' Perspective on California's Death
Penalty," www.cdaa.org
Mar. 2003*

CON: "[A] shocking two out of three death penalty convictions have been overturned on appeal because of police and prosecutorial misconduct, as well as serious errors by incompetent court-appointed defense attorneys with little experience in trying capital cases. How can we contend that we provide equal justice under the law when we do not provide adequate representation to the poor in cases where a life hangs in the balance? We, the Congress, must bear our share of responsibility for this deplorable situation. In short, while others, like Governor Ryan in Illinois, have recognized the flaws in the death penalty, the Congress still just doesn't get it. This system is broken."

John Conyers, Jr., JD ★★☆☆
US Congressman (D-MI)
*Hearing for the Innocence Protection Act of 2000
before the Subcommittee on Crime of the
Committee on the Judiciary of the House of
Representatives
June 20, 2000*

10. Physicians at Executions

PRO: "Accepting capital punishment in principle means accepting it in practice, whether by the hand of a physician or anyone else... If one finds the practice too brutal, one must either reject it in principle or seek to mitigate its brutality. If one chooses the latter option, then the participation of physicians seems more humane than delegating the deed to prison wardens, for by condoning the participation of untrained people who could inflict needless suffering that we physicians might have prevented, we are just as responsible as if we had inflicted the suffering ourselves. The AMA [American Medical Association] position should be changed either to permit physician participation or to advocate the abolition of capital punishment. The hypocritical attitude of 'My hands are clean — let the spectacle proceed' only leads to needless human suffering."

Bruce E. Ellerin, MD, JD ★★☆☆

Doctor of Oncology Radiation at Sierra Providence Health Network

*Response letter to the New England Journal of Medicine regarding an article titled "When Law and Ethics Collide — Why Physicians Participate in Executions," by Atul Gawande, MD
July 6, 2006*

CON: "The American Medical Association's policy is clear and unambiguous... requiring physicians to participate in executions violates their oath to protect lives and erodes public confidence in the medical profession. A physician is a member of a profession dedicated to preserving life... The use of a physician's clinical skill and judgment for purposes other than promoting an individual's health and welfare undermines a basic ethical foundation of medicine — first, do no harm. The guidelines in the AMA Code of Medical Ethics address physician participation in executions involving lethal injection. The ethical opinion explicitly prohibits selecting injection sites for executions by lethal injection, starting intravenous lines, prescribing, administering, or supervising the use of lethal drugs, monitoring vital signs, on site or remotely, and declaring death."

American Medical Association (AMA) ★

*"AMA: Physician Participation in Lethal Injection Violates Medical Ethics," press release from the AMA website
July 17, 2006*

PRO Death Penalty

CON Death Penalty

Ohio Department of Rehabilitation and Correction

Capital Punishment in Ohio



Capital punishment has been a part of Ohio's justice system since early in the state's history. From 1803, when Ohio became a state, until 1885, executions were carried out by public hanging in the county where the crime was committed. In 1885, the legislature enacted a law that required executions to be carried out at the Ohio Penitentiary in Columbus. The first person to be executed at the Ohio Penitentiary was Valentine Wagner, age 56. Wagner, from Morrow County, was hanged for the murder of Daniel Shehan from Mt. Gilead. Twenty-eight convicted murderers were hanged at the penitentiary.

In 1897, the electric chair, considered to be a more technologically advanced and humane form of execution, replaced the gallows. The first prisoner to be executed by electrocution was William Haas, a 17-year-old boy from Hamilton County, for the murder of Mrs. William Brady. The last person to be executed by electrocution in Ohio was Donald Reinbolt, a 29-year-old inmate from Franklin County, for the murder of Edgar L. Weaver, a Columbus grocer. He was executed on March 15, 1963. From 1897 to 1963 there were 315 persons put to death in the electric chair including three women.

In 1972, the United States Supreme Court declared the death penalty to be unconstitutional. The decision reduced the death sentences of 65 Ohio inmates to life in prison. Also in 1972, Death Row was moved to the newly opened Southern Ohio Correctional Facility (SOCF) at Lucasville.

In 1974, the Ohio General Assembly revised Ohio's Death Penalty law, but the U.S. Supreme Court rejected the new law in 1978. As a result, 120 condemned prisoners, including four women, had their sentences commuted to life in prison.

After drafting a new law to reflect the strict criteria for the imposition of the death sentence, Ohio lawmakers enacted the current capital punishment statute, which took effect October 19, 1981. Leonard Jenkins of Cuyahoga County was the first to be sentenced under the current law. His sentence and the sentences of three other men and four women were later commuted to life by then Governor Richard Celeste during the last days of his tenure as governor in January 1991.

The Franklin County Common Pleas Court found seven of the eight clemencies to have been improperly imposed (including Jenkins') and reinstated the death penalty of those inmates. They were returned to death row on February 14, 1992. One woman's commutation, Beatrice Lampkin, was found to have been properly processed and was not challenged in the suit filed by the Ohio Attorney General. The 1992 decision was overturned early in 1997, and those seven clemencies have been subsequently reinstated.

In 1993, a bill granting prisoners the option to choose between death by electrocution or lethal injection was passed and signed into law by former Governor George V. Voinovich. The Death Row inmate would be asked to choose between the two methods seven days before the scheduled execution. The law stipulated that if the prisoner did not choose, the default method of execution would be death by electrocution.

In 1995 Death Row was relocated to the Mansfield Correctional Institution in Mansfield, Ohio. The "Death House" remains at the Southern Ohio Correctional Facility. All executions, whether male or female, take place at the Southern Ohio Correctional Facility.

On February 19, 1999, inmate Wilford Berry, "The Volunteer", became the first inmate to be executed in Ohio since 1963. He voluntarily waived all of his appeals and selected lethal injection as the method of execution. To date, there have been eight inmate "volunteers" executed in the state of Ohio. Berry was serving a death sentence out of Cuyahoga County for the 1989 murder of Charles Mitroff.

On August 21, 2001, DRC changed the time of scheduled executions from 9:00 p.m. to 10:00 a.m. The change was implemented to take advantage of business hour resources as well as to reduce costs.

On November 15, 2001, Governor Bob Taft signed House Bill 362 eliminating the electric chair as a form of execution. The only method of execution in Ohio is lethal injection.

On February 26, 2002, Ohio's electric chair, nicknamed "Old Sparky," was decommissioned and disconnected from service. The original electric chair was donated to the Ohio Historical Society on December 18, 2002, and a replica electric chair was donated to the Mansfield Reformatory Preservation Society.

On June 26, 2003, inmate Donna Roberts became the first female on Ohio's death row since 1991 when then-Governor Celeste commuted the sentences of four women on Death Row to life in prison.

On June 26, 2003, Governor Bob Taft commuted the sentence of inmate Jerome Campbell to life in prison without the possibility of parole. This was the first time that Governor Taft has exercised his right to grant executive clemency.

In October 2005, DRC transferred death row from the Mansfield Correctional Institution to the Ohio State Penitentiary in Youngstown. Death row for females is located at the Ohio Reformatory for Women.

On January 9, 2008, Governor Ted Strickland commuted the sentence of inmate John Spirko to life in prison without parole eligibility. This was done after Spirko had received several reprieves from Governor Strickland while DNA testing was being conducted.

On February 12, 2009, Governor Ted Strickland, in agreement with the recommendation from the Ohio Parole Board, commuted the sentence of inmate Jeffrey Hill to life with parole eligibility after 25 years.

On November 30, 2009, DRC became the first state in the country to adopt a one-drug protocol for lethal injections. The revised protocol also includes a back up method for intramuscular injection, should vascular access be problematic. On December 8, 2009, Kenneth Biros was the first inmate put to death using the one-drug lethal injection protocol.

On June 4, 2010, Governor Ted Strickland, in agreement with the recommendation from the Ohio Parole Board, commuted the sentence of inmate Richard Nields to life without the possibility of parole.

On September 2, 2010, Governor Ted Strickland commuted the sentence of inmate Kevin Keith to life without the possibility of parole.

On November 15, 2010, Governor Ted Strickland commuted the sentence of inmate Sidney Cornwell to life without the possibility of parole.

In May 2011, Governor John Kasich commuted the death sentence of death row inmate Shawn Hawkins to life with out parole.

On September 26, 2011, Governor John Kasich commuted the death sentence of Joseph Murphy to life without parole.

In January 2012, Ohio's death row relocated to the Chillicothe Correctional Institution.

On June 10, 2012, Governor John Kasich commuted the death sentence of John Eley to life without parole.

On December 17, 2012, Governor John Kasich commuted the death sentence of Ron Post to life without parole.

To date, Ohio has executed a total of 393 convicted murderers.

Facts on the Death Penalty in Ohio

1. Under its 1981 death penalty statute Ohio has carried out 53 Executions since 1999, all men by lethal injection. Ohio executed eight men in 2010, the second highest total in the United States after Texas.
2. There are 136 males on death row at the Chillicothe Correctional Institute plus six men and one woman awaiting retrial. The death house is located at the Southern Ohio Correctional Facility in Lucasville, OH.
3. There are 15 executions scheduled roughly every other month between now and November of 2015.
4. Ohio's supply of Pentobarbital for use in lethal injections expired at the end of September, 2013. On January 16 The Ohio Department of Corrections executed a gasping Dennis McGuire in a procedure lasting 26 minutes with an unprecedented combination of the sedative midazolam and the painkiller hydromorphone - that had never before been used in the U.S.
5. Since 1976 Ohio Governors have commuted 18 death sentences, including five by Governor Kasich who in November 2013 postponed the execution of Ronald Phillips for seven months so his "nonvital" organs could be harvested for transplanting as he requested. Governor Taft commuted the death sentence of Jerome Campbell of Hamilton County following DNA evidence established that it was his own blood on sneakers that the prosecution suggested to jurors was from the victim.
6. Six men have been officially exonerated from Ohio's death row, 143 in the U.S.
7. 66% of inmates on death row are there for killing white victims and 31% are there for killing black victims. African Americans comprise 65% of victims of murder in Ohio.
8. In 2007, a study conducted by the American Bar Association concluded that Ohio was deficient in 93% of the protocols needed for a fair and accurate death penalty system. These deficiencies lead to the creation of the Ohio Supreme Court Joint Task Force to Review the Administration of the Death Penalty in 2011.
9. Romell Broom's 2009 execution was stopped by Gov. Ted Strickland after an execution team tried for two hours to find a suitable vein, and he remains on Death Row.
10. In August 2013 Billy Slagle committed suicide two days prior to his scheduled execution.
11. Hamilton County with 7% of Ohio's population accounts for 20% of those on Ohio's death row -- 28. Cuyahoga and Franklin Counties each with 10% of the state's population each account for less than 10% of those awaiting execution.

Ohio Death Penalty References

AMERICAN BAR ASSOCIATION *The Ohio Death Penalty Assessment Report: An Analysis of Ohio's Death Penalty Laws, Procedures, and Practices*, September 2007

http://www.americanbar.org/groups/individual_rights/projects/death_penalty_due_process_review_project/death_penalty_assessments/ohio.html

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION *Capital Punishment in Ohio*
<http://www.drc.ohio.gov/public/capital.htm>

OFFICE OF THE OHIO PUBLIC DEFENDER, *Death Penalty Information*
http://www.opd.ohio.gov/DP/DP_MoreInfo.htm

OHIO ATTORNEY GENERAL, *Capital Crimes Annual Reports*
<http://www.ohioattorneygeneral.gov/Files/Publications/Publications-for-Law-Enforcement/Capital-Crimes-Annual-Reports.aspx>

Representatives for Victims of Capital Crimes

OHIO SUPREME COURT Joint Task Force to Review the Administration of Ohio's Death Penalty
<http://www.supremecourt.ohio.gov/Boards/deathPenalty/>

OHIO HOUSE OF REPRESENTATIVES HB 385, Proposed Legislation to abolish Ohio's death penalty.
http://www.legislature.state.oh.us/BillText130/130_HB_385_I_Y.pdf

Representative Nickie J. Antonio (D-13) and Representative Dan Ramos (D-52)

OHIOANS TO STOP EXECUTIONS <http://www.otse.org/>

DEATH PENALTY INFORMATION CENTER http://www.deathpenaltyinfo.org/state_by_state

John Murphy, *Capital Punishment and the Citizens of Ohio*, 29 U. Dayton L. Rev. 329 (2004).

David L. Hoeffel, *Ohio's Death Penalty: History and Current Developments*, 31 Cap. U. L. Rev. 659 (2003).

Death Row in Ohio, 2003: The Case for a Study Commission, The Ohio Death Row Research Group, 72 U. Cin. L. Rev. 223 (2003).

Joseph E. Wilhelm and Kelly L. Culshaw, *Ohio's Death Penalty Statute: The Good, the Bad, and the Ugly*, 63 Ohio St. L.J. 549 (2002).

S. Adele Shank, *The Death Penalty in Ohio: Fairness, Reliability, and Justice at Risk - A Report on Reforms in Ohio's Use of the Death Penalty since the 1997 Ohio State Bar Association Recommendations Were Made*, 63 Ohio St. L.J. 371 (2002).

UUJO Ohio/Hamilton County Death Penalty Facts current as of February 1, 2014 PAGE 2 of 2

False Confessions and the Jogger Case

By Saul Kassin

Published: November 1, 2002

The reopening of the Central Park jogger case has exposed for scrutiny the confessions of the five defendants that led to their convictions. Four of the boys, now men -- Antron McCray, Kevin Richardson, Raymond Santana and Kharey Wise -- confessed on camera to the district attorney, Elizabeth Lederer. (The fifth defendant, Yusef Salaam, did not agree to be taped.) The videotapes themselves are shocking in their details and the seeming truthfulness of the defendants speaking.

Yet we now know from DNA evidence that Matias Reyes, a convicted serial rapist and murderer, had raped the jogger. He says he acted alone. No DNA or other physical evidence connected the five defendants to the crime scene.

Why then do the taped confessions seem so compelling? To appreciate how a confession can be both compelling and false, one has to understand the process. Every confession begins with a simple, stripped-down admission: "I did it." But that's not enough to prove guilt because people are too easily coaxed into compliance. To tell whether an admission is true, investigators seek proof in the form of a full post-admission narrative -- a story from the suspect that tells what he did, how, when, where and why.

Most people cannot imagine that they would ever confess to a crime they did not commit. Yet false confessions have been amply documented -- as in recent cases in which new DNA evidence exonerated convicted confessors, some on death row.

There are ways to assess whether a confession corroborates an admission of guilt. The first step is to see whether there were factors present that would have increased the likelihood of coercion -- like the age and competency of the suspect as well as the conditions of custody and interrogation. Coercion increases the risk of a false confession, but does not guarantee it. Coerced confessions may be true; conversely, innocent people sometimes confess to acts they did not commit, even without prompting.

A second step requires considering whether the confession contains details that are consistent with the statements of others, accurate in their match to the facts of the crime and lead to evidence unknown to police.

Lastly, a confession proves guilt if the accurate facts it contains are knowable only to a perpetrator. To the extent that the details might have become known to the suspect from secondhand sources, a statement loses its diagnostic value and cannot corroborate the admission of guilt.

In the jogger case, the confessions appear voluntary, textured with detail, and the product of personal experience. It is easy, however, to mistake illusion for reality. Out of context, a videotaped confession is often like a Hollywood drama -- scripted with crime facts, rehearsed during interrogation, directed by the questioner and enacted by the suspect.

Risk factors for coercion did exist in this case. The boys were 14 to 16 years old, making them more compliant than the average adult. At the time of their videotaped statements, the defendants had been in custody and interrogated on and off for 14 to 30 hours. Most interrogations last an hour or two; law enforcement manuals caution against pushing too much further.

<http://www.nytimes.com/2002/11/01/opinion/false-confessions-and-the-jogger-case.html> PAGE 1 of 2

The police and defendants disagree over what transpired that night -- whether the parents had access to the boys, for example, and whether promises to go home were made. For all that is known, both sides may be right. Maybe explicit promises were not made but were implied or inferred. A simple assertion like "you can't go home, you're not cooperating" could lead the accused to imagine that cooperation would bring freedom.

Of course, a coercive atmosphere does not absolve the guilty or invalidate their confessions. The Central Park confessions are compelling precisely because they are so vividly detailed. Yet the narratives are filled with inconsistencies, contradictions and errors.

For example, Kharey Wise said the jogger's head injuries were the result of being punched; after prompting, he said the injuries were caused by a rock; moments later, the rock turned to bricks. Mr. Wise said he was with a friend named Al; suddenly Al vanished and was replaced by an Eddie. In addition, there were inconsistencies from one account to the next. Mr. Wise and Kevin Richardson were taken to the park and separately asked to point to the attack site, and they pointed in different directions.

There were also factual errors. Antron McCray said the jogger wore blue shorts and a T-shirt; she wore long black tights and a long-sleeve jersey. Kharey Wise said the jogger and her clothes were cut with a knife; there were no knife cuts. Kevin Richardson did not seem to know the victim bled; she bled profusely.

Looking at the accuracies, rather than at the errors, might lead to the conclusion that the confessions were true. That is why the analysis requires a third step. A confession proves guilt if it contains details knowable only to a perpetrator. On camera one hears questions that not only elicit information from suspects but communicate information to suspects. At one point, the prosecutor asked Mr. Richardson, "Don't you remember somebody using a brick or a stone?" -- a question that suggests the answer being sought.

The investigators took Kharey Wise to the crime scene before his videotaped statement, and the prosecutor showed him pictures of the victim. Those actions made it difficult to tell what he knew on his own, further diminishing the probative value of his subsequent confession.

This multistep analysis does not compel the conclusion that the confessions were false -- only that they failed to corroborate guilt. In the broader context of what is now known, however, one might reasonably conclude that Matias Reyes acted alone, as he had in other rapes, and that the five defendants were innocent of this crime.

The Manhattan district attorney, Robert M. Morgenthau, will soon decide whether to vacate the men's convictions in light of the new disclosures and perhaps assert their innocence. He should also guard against similar failures in the future. Every minute of interrogation should be videotaped. This simple procedural reform will deter police coercion, deter frivolous defense claims of coercion, and enable trial judges and juries to assess the veracity of taped confessions. The best way to ensure and determine the truth of a confession is to record and see the entire picture.

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News Sampling Regarding Ohio's Latest Execution

Dennis B. McGUIRE
Classification: Murderer
Characteristics: Kidnapping - Rape
Number of victims: 1
Date of murder: February 11, 1989
Date of arrest: December 22, 1993
Date of birth: February 10, 1960
Victim profile: Joy Stewart, 22 (30-weeks pregnant)
Method of murder: Slashing her throat
Location: Preble County, Ohio, USA
Status: Executed by lethal injection in Ohio on January 16, 2014

No mercy for man who raped and killed pregnant woman

Published: Sat, December 21, 2013 @ 12:00 a.m.

Associated Press

COLUMBUS

A condemned inmate who raped and killed a pregnant woman nearly 25 years ago and faces execution next month by a never-tried method of lethal injection does not deserve mercy, the state parole board said Friday.

Ohio Inmate Raises Suffocation, Legal Aid Appeals

by The Associated Press

January 10, 2014 5:35 PM

COLUMBUS, Ohio (AP) — With time running out, the condemned killer of a pregnant woman has launched two federal appeals, arguing both that his original attorneys never got the chance to lay out the extent of his chaotic and abusive childhood, and that if executed, he would experience "agony and terror" from the state's untried execution process.

The state calls death row inmate Dennis McGuire's argument over the execution process an "eleventh hour" appeal based on claims that should have been raised years ago. Ohio is also expected to oppose arguments about the impact of McGuire's childhood.

UPDATE: Slain Woman's Sister: McGuire Treated More Humanely Than His Victim

by Fox 45

January 17, 2014 8:04 AM EST

LUCASVILLE -- Carol Avery, the sister of 22-year-old Joy Stewart, who was murdered in 1989, says her family members are Christians and believe in forgiveness. They have forgiven 53-year-old Dennis McGuire for the murder of Joy and her unborn child. However, that forgiveness did not negate the need for him to pay for his actions.

Avery said her sister suffered terror and pain and was treated more humanely as a death row inmate than he treated Joy.

It was time, Avery said, that McGuire face justice

Unclear Future For Executions After Ohio's Longest

by The Associated Press

January 18, 2014 2:10 AM

COLUMBUS, Ohio (AP) — Ohio's latest experience with putting an inmate to death raises new question about the ability of states to carry out executions in constitutional fashion.

A gasping, snorting Dennis McGuire took 26 minutes to die after the chemicals began flowing Thursday — the longest execution of the 53 carried out in Ohio since capital punishment resumed 15 years ago, according to an Associated Press analysis.

McGuire's adult children said it amounted to torture, with the convicted killer's son, also named Dennis, saying: "Nobody deserves to go through that."

Family Alleges Ohio Execution Unconstitutional

by The Associated Press

January 25, 2014 11:48 AM

COLUMBUS, Ohio (AP) — The prolonged execution of an inmate during which he repeatedly gasped and snorted amounted to cruel and unusual punishment which should not be allowed to happen again, the inmate's family said in a federal lawsuit.

The lawsuit, filed late Friday, also alleges the drug maker that produced the medications illegally allowed them to be used for an execution and should be prohibited from making them available for capital punishment.

Dennis McGuire "repeated cycles of snorting, gurgling and arching his back, appearing to writhe in pain," the lawsuit said. "It looked and sounded as though he was suffocating."