

## **OREGONIANS FOR ALTERNATIVES TO THE DEATH PENALTY**

---

### **Is a death penalty needed to assure public safety?**

Supporters of the death penalty say, “once executed, a violent criminal will never harm anyone again”. While this is true, there is no evidence that a death penalty is superior to the alternative of life without the possibility of parole.

The professionals working in the Oregon Department of Corrections do a great job of keeping the public safe from violent criminals. Life without the possibility of parole works very well to keep the public safe. Those states that do not have a death penalty generally have a lower murder rate than those states with a death penalty and the public is just as safe.

The safety of prison personnel is another important element of public safety. It is a fact that there have been murders in prisons in Oregon and other states. Oregon has not had a single murder committed by a person on death row. While Oregon has 37 people isolated on death row, there are 137 prisoners in the Oregon penitentiaries, serving sentences of life without parole. According to prison personnel, the “lifers are the best behaved prisoners in the entire system”. People who are living a life of crime on the streets are in much greater peril of being a victim of violent crime or murder than when they are in prison. In addition to the 37 people on death row and the 137 true life prisoners, there are over 600 people in Oregon prisons serving sentences for murder with the possibility of parole.

According to the Oregon Department of Corrections records, there have been 11 murders committed in the entire prison system, in the past 27 years, which is as long as those records have been kept. That figure equates to one murder in prison for every two years and four months....less than one for every two years and four months. Any murder is deplorable. But, with the effectiveness of the Oregon corrections professionals, the murder rate on the inside is no greater than the murder rate on the outside.

Not having a death penalty will not make a difference in public safety. The things that make a difference in public safety and deter violent crime and murder are more police on the streets, better investigative tools, more rehabilitation programs for the addicted, better schools and interventions into abusive households. Why waste a millions of dollars on a death penalty, when the savings could be invested in the programs listed above that do deter crime and keep the public safe.

## **OREGONIANS FOR ALTERNATIVES TO THE DEATH PENALTY**

---

### **Justice**

Many people feel that killing convicted murderers will satisfy their need for justice, revenge or retribution. They feel that certain crimes are so heinous that execution of the criminal is the only reasonable response.

The scales of justice show two cups balanced, symbolizing equal treatment under the law. The administration of the death penalty is anything but fair, balanced and equitable. The death penalty, as used in this country, is biased against the poor and people of color. Fairness is not always practiced when it comes to the death penalty.

The administration of the death penalty is carried out by human beings. Humans make mistakes. There have been 142 people exonerated from death row in these United States, since 1976, as of a result of mistakes being corrected before the convicted person was executed. While DNA has played an important role in 19 of those cases, judicial errors, inadequate defense, prosecutorial misconduct, false testimony, forced confessions and eventual confessions by the real killer also are cited in the correction of those mistakes. Inequality in defense, in jury selection and in prosecution lead to a system that cannot be considered "just" and "fair".

Less than 2% of those tried and convicted of aggravated murder receive a death penalty. Those that do get a death penalty are overwhelmingly poor and a disproportionate percentage is people of color.

Juries made up of mostly white males convict people of color at a much higher rate than cases involving a white person killing a person of color or a victim or perpetrator of the same race.

In addition to race being an unfair factor, "place" is also a source of inequality in the administration of the death penalty. The same crime can be committed in one state with a death penalty or a state without a death penalty. They are not handled in the same manner. A crime committed in a county with a prosecutor who seldom pursues a death penalty will be treated differently than the same crime committed in a county with a politically ambitious, "tough on crime", prosecutor.

Another element that causes an imbalance in outcomes in death penalty eligible cases is the fact that there is no consideration of "comparative proportionality", or comparison of one murder to another. If the death penalty is supposed to be saved for the "worst of the worst", there is really no way to determine who they may be. There are glaring examples on Oregon's death row supporting this point. All murders are totally repugnant. Justice would provide that all those convicted of aggravated murder be treated in a similar fashion.

Unlike many states Oregon does not require prosecutors to exercise any discretion with regard to the death penalty decision. Instead, the death penalty is an option once aggravated murder charges are filed.

# OREGONIANS FOR ALTERNATIVES TO THE DEATH PENALTY

---

## Have we had mistakes in Oregon?

**Innocence and Mistakes:** (revised 2/6/13) At the time they were convicted, some more than once, the juries had no reasonable doubt that they were guilty. Some were re-sentenced two or three times before evidence of their innocence was found. As of January 2012 none of those who have been sentenced to death in Oregon since 1984, when the current death penalty law was passed, have yet been found to be innocent. However, we have come perilously close. Six people were convicted of murder, or aggravated murder, and given sentences ranging from twenty years in prison to life without the possibility of parole.

**Christopher Boots** and **Eric Proctor** were convicted of murder in Lane County in 1985 and sentenced to twenty years each. The evidence was thin and forensic evidence was later debunked. Most importantly, the person who committed the robbery and murder was identified. Released in 1994, after eight years in prison, Boots and Proctor settled with the City of Springfield for \$2 million.

**Laverne Pavlinek** implicated her partner **John Sosnovske** in the murder of a young woman whose body was found in the Columbia Gorge in 1992. Apparently she did it in order to escape an abusive relationship. The evidence shows she learned enough from news reports and information she gleaned from her interrogators to convince them of Sosnovske's guilt. Sosnovske pled no contest in order to avoid a death sentence and received a sentence of life without parole. Pavlinek was also convicted of murder and given a life sentence. Their case fell apart when Keith Jespersen, the "Happy Face Killer" who was in prison for other murders, confessed and gave information that only the police knew. Sosnovske and Pavlinek were released in 1995.

**Santiago Ventura Morales** was sentenced for the murder of another Mexican man in 1986. There were problems from the beginning; the county had no interpreters who spoke Ventura's Mixtec dialect and he could not understand or cooperate in the investigation and trial. Most concerning, however, was that another person had confessed to the crime. Jurors, who had convicted him, almost immediately expressed doubts but it took a lengthy investigation by private citizens to identify the murderer and convince the authorities Ventura Morales was innocent and should be released. Ventura Morales was released in 1991.

**Phillip Scott Cannon** was convicted of aggravated murder and sentenced to life without the possibility of parole in 1999 for the murder of three people in Polk County. He maintained his innocence throughout his trial, the eleven years he served in prison, and through his ultimate release. Testimony from witnesses who had been at the murder scene to purchase drugs said that Cannon had acted "strangely" and from the

owner of the property who later served time for a subsequent murder apparently carried weight. However, the strongest evidence came from a forensic technique called “bullet lead analysis.” This technique, then suspect and now completely repudiated by the FBI, purported to match the lead from crime scene bullets to the batch in which they had been manufactured. If a defendant had bullets from the same batch in his possession, it was considered that proof had been established. In spite of the technique being under suspicion at the time of Cannon’s trial, the prosecution used it to convict him. The courts finally recognized there was no evidence to sustain a verdict of guilty and Cannon’s conviction and sentence were overturned in December 2009. It was subsequently found that the District Attorney’s office had lost or destroyed all of the original trial evidence. The unreliability of the original witnesses and the lack of investigation of other available witnesses who could have refuted the prosecution evidence cast doubt on the truth of Cannon’s conviction. He could have received a sentence of death. Fortunately he was given a sentence of life without the possibility of parole making it possible to reexamine his case before he could be executed.

Of the 37 people on Oregon’s death row presently, six have had their convictions overturned and are awaiting re-trial. The main reasons have been mistakes made by judges in their instructions to juries, lack of adequate legal defense and competency of the defendant to assist his defense team.

A great number of the convictions and death sentences have been overturned during appeals.

Death penalty supporters insist that the system in Oregon has made no mistakes because no death sentenced person has been exonerated. It is only through pure luck that this has not happened.

**Oregon does not need the death penalty – it is too risky and an execution cannot be undone.**

From 1976 through January 2012, 142 people from 26 states have been released from death rows around the nation, having been found innocent of the crimes for which they were sentenced to death.

**Of the 142 exonerated, 72 are Black, 13 Latino and 2 other people of color. That total of 87, represents 61% of the 142 total.**

# OREGONIANS FOR ALTERNATIVES TO THE DEATH PENALTY

## Does the Death Penalty Prevent More Murders?

Academic and professional researchers and institutions over the years have disagreed on this subject. In 2012, the National Academies National Research Council, the most respected independent research organization in the land, examined three decades of research and concluded that the research is not useful. “The committee concludes that research to date on the effect of captial punishment on homicide is not informative about whether capital punishment decreases, increrases or has no effect on homicide rates”. This learned conclusion differs from those who argue that the death penalty is a deterrent to violent crime and murder. (1)

In the 2010 Smart on Crime survey of 500 law enforcement executives, the majority of police chiefs and sheriffs concluded that the death penalty is not a deterrent. (2)

In another study, conducted by Prof. Michael Radelet, of the University of Colorado, 88% of the top criminologists in the country do not believe the death penalty acts as a deterrent to homicide. Additionally, 87% believe abolition of the death penalty whould hve no significatn effect on murder rates.

- Federal Bureau of Investigation comparisons of states with and without the death penalty show that those states without a death penalty consistently have lower murder rates per 100,000 population than those states that have a death penalty.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
With DP	5.70	5.82	5.82	5.91	5.71	5.87	5.90	5.87	5.72	5.26	5.00
W/O DP	4.25	4.25	4.27	4.10	4.02	4.03	4.22	4.10	4.05	3.90	4.01
%Dif	34%	37%	36%	44%	42%	46%	40%	43%	41%	35%	25%

### What About Oregon?

Compared with other death penalty and non death penalty states Oregon’s murder rate, per 100,000 population has remained consistently low. Although Oregon does have the death penalty in law, it has only executed two inmates since 1962. Both inmates relinquished their appeals. Since it has not been shown that the death penalty deters murders, the death penalty does not seem to be a factor in Oregon.

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2.0	2.4	2.0	1.9	2.5	2.2	2.4	2.0	2.2	2.3	2.4

Federal Bureau of Investigation Uniform Crime Statistics. <http://www.fbi.gov/stats-services/crimestats>

- (1) Source: Deterrence and the Death Penalty, April 18, 2012, THE NATIONAL ACADEMIES National Research Council, Division of Behavioral and Social Sciences and Education, Committee on Law and Justice, Committee on Deterrence and the Death Penalty
- (2) "Smart on Crime: Reconsidering the Death Penalty in a Time of Economic Crisis. 2009. National poll of Police Chiefs, from the Death Penalty Information Center.

P.O. Box 361 \* Portland, OR 97207-0361 \* (503) 990-7060 \* Email [info@oadp.org](mailto:info@oadp.org) \* Web site [www.oadp.org](http://www.oadp.org)