



Editor's Note



Dear Readers,

Welcome to the first-ever issue of the University of Maryland, Baltimore County Law Review! As this year's Editor-in-Chief, I am greatly honored to help establish a platform where students can engage in legal discourse, share original scholarship, and contribute to UMBC's growing excellence in social sciences. This inaugural issue is the result of the dedication, collaboration, and hard work of our incredible team. I want to extend my sincerest gratitude to our Managing Editor, Mehak F. Rizvi; Senior Editors Sedat Sefik & Qamrym Askew; Associate Editor Evelyn Pearce; and our website designer, Mohammed Wajahat. Last but not least, I am incredibly grateful to our writers, Anahita Abraham, Audrey Grutzik, Khizar Qazi, Juliana Blakely, Darell Jean-Louis, Priya Giri, Johann Rojas-Monroy, and Aminah Anderson for making this publication a reality.

I am deeply honored to serve as the Managing Editor-in-Chief for the first issue of the UMBC Law Review. In this edition, we are proud to showcase a variety of topics that examine law from many angles. Our writers dive into global issues like human rights, international relations, and criminal justice, as well as constitutional law and personal injury. Moving forward, we warmly welcome submissions on any legal topic, and we hope these pieces spark great conversations and inspire you to write for our future issues.

Mehak F. Rizvi
Managing Editor





A Policy That Won't Die: The Death Penalty Despite the Evidence

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I. Abstract

This article examines why the death penalty continues to exist in the United States despite a lack of clear evidence supporting its effectiveness as a deterrent to crime. Focusing on empirical research, this analysis will highlight how studies on capital punishment produce inconsistent and inconclusive results, with many failing to demonstrate a reliable reduction in homicide rates.¹ The central question guiding this discussion is whether capital punishment measurably reduces crime rates, since deterrence is one of the primary justifications used to support the death penalty. Rather than examining moral or ethical debates surrounding this punishment, this analysis is limited to policy effectiveness and factors that influence its continuation despite uncertain results. It is assumed that to be justified on practical grounds, a policy should produce clear and consistent results. However, existing research presents conflicting and inconclusive findings, making it difficult to confirm the death penalty's impact on crime. By narrowing the focus to empirical evidence and policy behavior, this analysis shows that the persistence of the death penalty is not driven by proven effectiveness, but by other forces

¹ Bureau of Justice Statistics, (2023). "Capital Punishment." *Offices of Justice Program*, U.S. Department of Justice



such as political pressure, public opinion, and institutional tradition. The paper also considered counterarguments that suggest the death penalty may deter crime in certain contexts, acknowledging their strengths while also emphasizing the limitations. Ultimately, the analysis concludes that the continued use of the death penalty reflects broader social and political influences rather than proven effectiveness, raising important questions about its role in modern criminal justice policy.

II. Introduction

Despite decades of research examining its impact, the death penalty remains a persistent feature of the American criminal justice system. This endurance is striking given the lack of clear and consistent evidence demonstrating its effectiveness as a deterrent to crime. Studies have found that capital punishment produces conflicting and inconclusive results, raising severe doubts about its practical value. Despite this doubt, the death penalty continues to be upheld and enforced across various states. This article delves into the persistent existence of the death penalty, arguing that its continued acceptance is not based on empirical evidence, but rather on a combination of inconsistent research findings, strong public opinion, political pressures, and deeply established institutional and historical structures within the legal system.

III. Background

The death penalty has a long and complex history in the United States, rooted in earlier legal traditions brought from Europe. Especially during the medieval and early modern periods, the death penalty was widely used as the primary form of punishment for a broad range of



crimes, including murder, theft, religious offenses, and treason.² So when European settlers came to North America, they brought these legal traditions with them. By the 20th century, growing concerns about fairness, wrongful convictions, and morality of state-sanctioned execution led to increasing legal challenges.

A major turning point came with the Supreme Court Case *Furman v. Georgia* (1972), which ruled that the death penalty was being applied in an arbitrary and inconsistent manner, which effectively halted executions across the country. In response, states revised their laws to create more structured sentencing procedures, which were later upheld in *Gregg v. Georgia* (1976), allowing the death penalty to resume. Since then, its use has fluctuated with data showing a general decline in executions and death penalty populations in recent decades.³ Despite this decline and ongoing debates over its effectiveness, the death penalty remains legal in several states, which reflects both its deep historical roots and the continued divisions surrounding its use.

IV. Analysis

Now, one of the major reasons the death penalty continues to exist is that research on its effectiveness remains inconsistent and inconclusive. A review by the National Research Council found that studies on capital punishment show conflicting results, with some suggesting a deterrent effect, others finding no impact, and some identifying a phenomenon called the “brutalization effect,” where executions may increase violence by normalizing it.⁴ Similarly,

² “History of the Death Penalty.” *Death Penalty Information Center*

³ Bureau of Justice Statistics, (2023). “Capital Punishment.” *Offices of Justice Program*, U.S. Department of Justice

⁴ National Research Council. (2012). *Deterrence and the death penalty*. The National Academies Press.



Joanna Shepard's state-level analysis revealed that any deterrent effect is limited and uneven.⁵ Her research shows that only a small number of states experience a reduction in homicide rates, and that is only after reaching a relatively high number of executions. In contrast, about 78% of states show that there is no measurable benefit or even an increase in murder rates following executions.⁶ These findings highlight serious flaws in research, including unrealistic assumptions about how offenders perceive punishment and the failure to account for alternative sentences like life with parole. Since the evidence is so inconsistent and methodologically limited, it does not provide strong support for the death penalty as an effective deterrent, yet the policy remains.

In addition to weak and conflicting evidence, public opinions as well as political pressure play a significant role in sustaining the death penalty. Even when there are efforts to abolish it, the efforts are often blocked by voters and political institutions. For example, in 2012, California voters rejected Proposition 34, choosing to retain the death penalty despite increasing concerns about its fairness and effectiveness.⁷ This demonstrates how public support can outweigh empirical research in shaping criminal justice policy. Additionally, when the Supreme Court ruled in *Furman v. Georgia* (1972) that the death penalty was unconstitutional, their decisions sparked widespread public backlash. Rather than leading to the death penalty's permanent abolition, the backlash resulted in the reinstatement of capital punishment in revised forms.⁸ This shows that emotional responses, fear of crime, and a desire for retribution can often influence

⁵ Shepherd, Joanna M. "Deterrence versus Brutalization: Capital Punishment's Differing Impacts among States." *Michigan Law Review*, vol. 104, no. 2, 2005, pp. 18.

⁶ Shepherd, Joanna M. "Deterrence versus Brutalization: Capital Punishment's Differing Impacts among States." *Michigan Law Review*, vol. 104, no. 2, 2005, p. 205.

⁷ Bedard, H. (2026, January 15). *Twenty Years Since Last Execution: California Remains Under Execution Moratorium as Advocates Push for Mass Clemency Grant*. Death Penalty Information Center.

⁸ Elaine, M. (2023). *The End of the Death Penalty?* Harvard Law Bulletin.



policy decisions stronger than any data or research findings. As a result, the death penalty continues to exist not because it has been proven effective, but it retains political and social support.

Finally, the persistence of the death penalty can be attributed to institutional and historical factors within the legal system. Over time, capital punishment has been deeply embedded in law, court rulings, and criminal justice practices, creating a form of legal and structural stagnation. The first recorded death penalty in America was the execution of George Kendall from Virginia in 1608, followed by the first federal execution of Thomas Bird in 1790. The Supreme Court later reinstated the death penalty in *Gregg v. Georgia* (1976), holding it constitutional and establishing a new precedent after *Furman v. Georgia* (1972) had previously ruled the punishment unconstitutional⁹ Even with data from the Bureau of Justice Statistics showing that the executions and death row population have been on a steady decline, the system remains intact.¹⁰ This indicates that policies do not automatically disappear when they lose effectiveness; instead, they often persist due to tradition, precedent, and the slow pace of legal reform. Abolishing the death penalty would require significant legislative and judicial change, which can be politically difficult and controversial. Furthermore, there is a long history in the United States that reinforces the perception that the death penalty is a legitimate and necessary form of punishment. So, due to the institutional barriers and historical influences, the death penalty continues to exist despite growing evidence that questions its effectiveness.

⁹ "History of the Death Penalty." *Death Penalty Information Center*

¹⁰ Bureau of Justice Statistics, (2023). "Capital Punishment." Offices of Justice Program, U.S. Department of Justice



A reasonable counterpoint is that the death penalty should continue because it may deter crimes in some cases. For example, Joanna Shepherd's research suggested that states with higher numbers of executions may see a decrease in homicide rates.¹¹ Supporters also argue that even if the effect is limited, the possibility of saving lives makes the death penalty worth keeping. They also believe that the death penalty provides justice and closure for victims' families, which gives it value beyond just data. But this argument has some key weaknesses.¹² The deterrent effect is not consistent, since most states show no impact or even increased violence after executions. This makes the death penalty unreliable as a policy. In addition, this counterargument depends on assumptions about how people think about punishments. The idea of closure and justice differs from person to person, so therefore, it cannot serve as strong evidence. So, since the support for deterrence is weak and inconsistent, the death penalty still lacks clear proof of effectiveness.

V. Conclusion

Ultimately, the continued existence of the death penalty cannot be attributed to its proven effectiveness, as the research surrounding its deterrent value remains highly contentious and methodologically flawed. Instead, its persistence reflects the powerful influence of public sentiment, political resistance to change, and the enduring legacy of legal traditions that are slow to evolve. Even as executions decline and evidence increasingly calls its utility into question, the death penalty remains embedded within the American legal framework. This highlights a broader

¹¹ Shepherd, Joanna M. "Deterrence versus Brutalization: Capital Punishment's Differing Impacts among States." *Michigan Law Review*, vol. 104, no. 2, 2005, p. 234.

¹² Death Penalty Information Center, "Victims' Families," *Death Penalty Information Center*.



reality within criminal justice policy. Practices may endure not because they are effective, but because they are supported by social, political, and institutional forces that resist reform.

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