Introduction

To really explore the topic of capital punishment in the United States, I often think about how I would feel if a relative or close friend was murdered. I then think about how I would expect the people close to me to feel should someone murder me. In both instances, the death penalty never strikes me as being humane or pragmatic. No one ever deserves to have their life taken and no one should have the authority to take someone else’s.

When white supremacist Dylann Roof viciously murdered nine African Americans in their place of worship, initially I was hurt and angry. How could someone be so callous as to kill multiple people in their sacred place of worship? Although I am still angry that people were taken from their families and communities, I do not believe that the state should act just like Roof acted, then call it justice. He’s human, too.

Overview

In this paper, I will analyze the capital punishment system in the United States of America by examining if there is a link between the deterrence of crime and capital punishment. I will also compare the costs of capital punishment to an alternative, life imprisonment without parole.
To explore the deterrence theory, I will design my own experiment in order to test my hypothesis. To make a comparison between capital punishment and life imprisonment without parole, I will examine several systematic studies and also look at states singularly. I will also look at the cost of both forms of punishment.

With this research, I hope to not only enlighten myself, but also contribute to the broader discussion that is taking place all over the world.

Deterrence Literature Review

An Eye for an Eye: The Immorality of Punishing by Death

In An Eye for an Eye: The Immorality of Punishing by Death, author Stephen Nathanson analyzes the deterrence theory, which states that the fear of the death penalty deters would-be murderers from acting. Through his examination of comprehensive statistical studies on the relationship between executions and homicide rates, he comes to several conclusions. First, he determines that the death penalty is not a better deterrent than the alternatives (Nathanson 2001, 28). Next, he finds that the death penalty can contribute to an atmosphere where murder is acceptable (Nathanson 2001, 29). Lastly, he reasons that it is probably not possible to definitively know whether the death penalty saves lives (Nathanson 2001, 31).

According to Nathanson, the death penalty can be justified only if it can be determined that it prevents murders (Nathanson, 31). Because we cannot unquestionably know if the death penalty actually saves lives, the justification for the lives being taken during executions does not exist (Nathanson 2001, 31).
In *Just Revenge: Costs and Consequences of the Death Penalty*, author Mark Costanzo contends that the death penalty does not deter the occurrence of murders. First, he points out premeditated murders are rare, with the overwhelming amount of murders occurring in the heat of the moment. (Costanzo 1997, 104). He also cites mental illness as a source of murder (Von Drehle 1995). According to Costanzo, proponents of the death penalty mistakenly think rationally about deterrence, while murderers think irrationally (Costanzo 1997, 105). Next, Costanzo, points out that executions aren’t necessarily the most effective deterrent for would be murderers, as some may consider life in prison to be worse than death (Costanzo 1997, 104). Additionally, he asserts that increasing the severity of executions and the amount of executions would likely have no effects as deterrents (Costanzo 1997, 106). Lastly, Costanzo cites the incendiary nature of executions, as they lead to more violence both inside and outside prisons (Costanzo 1997, 108).

Finally, Costanzo describes the deterrence theory socially acceptable political speak jargon that obscures the illogicality and other ulterior motives for supporting the death penalty (Costanzo 1997, 111).

“On Deterrence and the Death Penalty”

In the article “On Deterrence and the Death Penalty from the *Journal of Criminal Law*, Ernest van den Haag argues that the death penalty can only be legal if justice and deterrence are among the goals of the American penal system because each intent, alone, could rationalize the death penalty (1969). In this article Haag, a supporter of capital punishment, explains that the
claim of the death penalty being unjust is only applicable if justice a reason for the death penalty, otherwise arguing against the justness of the death penalty is impractical (Haag 1969). Next, Haag points suggests that executions are irreversible, leaving no room for justice should errors be found in the judicial or investigative process (Haag 1969). Haag then proclaims, that deterrence depends on how often and how frequently people respond to the possibility of harm, as well as the positive or negative reinforcement (Haag 1969). Additionally, Haag asserts that supporters of the death penalty must prove more deterrent than life imprisonment and that that the severity of executions be an actual deterrent, and not just a theory (Haag 1969).


**What is a theory?**

According to Alan Monroe’s *Essentials of Political Science*, a theory is defined as, “a set of empirical generalizations about a topic.” Theories contain general statements about how some phenomenon occurs (Monroe 2000, 17). In their book *Understanding Communication Theory: The Communicative Forces for Human Action* (1998), John F. Cragan and Donald C. Shields define theories as, “a set of concepts and relationship statements that enables one to understand, describe, explain, evaluate, predict, and control things (phenomena).” The theory that I constructed for this paper is: Capital punishment is not an effective law enforcement is policy.
Deterrence Theory

One of the oldest and most frequently used arguments in support of the death penalty is that those contemplating committing murder will refrain out of fear of being executed. (Costanzo, 95). The main premise of the death penalty is that if the punishment is severe, then potential actors will be discouraged. Proponents of the deterrence theory tend to dismiss other arguments simply on the theoretical grounds that lives are saved and the public is safer (Costanzo, 96). The deterrence theory implies that jurisdictions that use the death penalty will possess lower murder rates than jurisdictions where the death penalty is used (Costanzo, 96).

In Favor of Deterrence

There are several layers to the argument that the death penalty deters crime. First, the deterrence argument highlights the correlation between Capital punishment and defensive killings by justifying executions on the grounds that other lives are saved because murderers can’t act anymore (Nathanson 2001, 16). Death Penalty Curriculum.org describes this as the incapacitation of the criminal’s propensity to commit future crimes. This argument assumes that every person that commits a capital crime will automatically act again after their original act.

Proponents of the deterrence theory also claim that the death penalty prevents murder more effectively when compared to other options (Nathanson 2001, 17). From this argument, the fear of death must trump any other punishment, including life imprisonment (Nathanson 2001, 17). This argument also assumes that if criminals faced the prospectus of death rather than a less harsh penalty, that they wouldn’t still pursue the crime (Nathanson 2001, 19). According to Ernest van den Haag, a Professor of Jurisprudence at Fordham University who has studied the
question of deterrence extensively, “Even though statistical demonstrations are not conclusive, and perhaps cannot be, capital punishment is likely to deter more than other punishments because people fear death more than anything else. They fear most death deliberately inflicted by law and scheduled by the courts. Whatever people fear most is likely to deter most. Hence, the threat of the death penalty may deter some murderers who otherwise might not have been deterred. And surely the death penalty is the only penalty that could deter prisoners already serving a life sentence and tempted to kill a guard, or offenders about to be arrested and facing a life sentence. Perhaps they will not be deterred. But they would certainly not be deterred by anything else (Death Penalty Curriculum).” Here, the assumption must be made that death is the only deterrent capable of preventing a Capital Crime. Another assumption that we must carry is that criminals have knowledge that the crime they may commit is a capital crime (Nathanson 2001, 19). Lastly the criminal would have to be certain that they won’t be able to elude an arrest and/or prosecution.

Against Deterrence

Proponents of the deterrence theory automatically assume that potential murderers think levelheadedly before acting (Costanzo 1997, 104). According to Costanzo these supporters are wrong because most murders are crimes of passion, meaning that their decision-making has been altered by feelings of anger, animosity, envy or fright (1997). The overwhelming majority of murders are spur-of-the-moment, with only ten percent being calculated or intentional (Costanzo 1997, 104). In his book Among the Lowest of the Dead: Inside Death Row, author David Von Drehle states, “The reality of, with few exceptions, is that murderers are not clear-thinking people… The values and concerns of society don’t concern them. They kill out of mental illness,
sexual perversion, for instant gratification or sheer bloody-mindedness… (1995)” Very few murderers are engaging in coherent thinking when doing something so gruesome as taking another life. Additionally, Costanzo adds that most of us wouldn’t murder anyone even if murder wasn’t punishable by execution (1997, 105).

The Brutalization Theory states that the administration of the death penalty creates a culture where killing is acceptable in times of disagreement (Nathanson 2001, 28). Brutalization theorists also believe the death penalty stimulates violent inclinations (Nathanson 2001, 28).

There are many other factors that influence the occurrence of crimes that warrant the death penalty (Nathanson 2001, 21). Nathanson points out that correlation does not always relate to cause. In this sense, the instance of crime rates rising or falling cannot be automatically attributed to a punishment simply because the desired outcomes are the same (Nathanson 2001, 21). Location, income level, biological factors, availability and cost of weapons, drug use, parenting, and social disorganization could all contribute to higher crime rates (Passell and Taylor 1977). In the New York Times article “Homicide Rates Jump in Many Major U.S. Cities, New Data Shows (2016),” authors Eric Lightblau and Monica Davey cite financial instability, the rise of the heroin epidemic, and gang activity for rises in homicides in major cities. James Comey, Director of the Federal Bureau of Investigation, attributes rises in homicide to milder policing tactics (Lightblau and Davey 2016). Lastly, researchers at the University of Chicago crime lab analyze issues like spending on social programs, success of public school systems, the amount of available mental health funding, and criminal investigation clearance rates (Ford 2017). With the fourth highest murder rate of developed countries (Kiersz and LoGiurato 2015), there are a multitude of reasons that crime could rise or fall.
Systematic Studies

One of the initial studies on the deterrence theory was completed by Massachusetts legislator Robert Rantoul during the 1840s. Rantoul evaluated murder and death penalty rates in several nations over a period of 40 years (Costanzo 1997). His findings revealed that executions were counter-deterrents (Rantoul 1846). He explains, “Murderers have rapidly diminished in those countries where executions are scarcely known… Under a milder administration of the law, there has been a change for the better. (1846)”

Thorstein Sellin completed one of the most important studies on the relationship between deterrence and the death penalty to date. He attempted to analyze the differences in homicide rates in states that have the death penalty to find out if states with the death penalty had lower crime rates and states without the death penalty had higher crime rates. He evaded the issue of deceptive correlations by comparing states that were “geographical neighbors and similar in many respects (Nathanson 2001, 22). By analyzing homicide rates from 1920-1958, Sellin concluded that the death penalty is not a better deterrent of homicides than long term imprisonment (1959). For example, Michigan, a state without the death penalty, had an identical murder rate to Indiana and a lower rate than Ohio, both of which were using capital punishment (Sellin 1959). Similarly, when Rhode Island, another state without the death penalty, was compared to Massachusetts and Connecticut, states with the death penalty, Rhode Island’s murder rate was found to be lower than Connecticut’s and the same as Massachusetts’s (Sellin 1959). Ruth Peterson and William Bailey performed a similar study from 1973 until 1984 and found that the average murder rate in states with the death penalty was 8.64 per 100,000 people, compared to 5.35 per 100,000 in states not using capital punishment (1994).
Isaac Ehrlich researched how homicide rates related with the quantity of actual executions, rather than with the presence or lack of the death penalty as Sellin had done (Nathanson 2001, 24). He analyzed the amount of executions and murders throughout the United States from 1932 – 1970 to establish a link between the rate of executions and the rate of homicides (Ehrlich 1975). Ehrlich concluded that a single execution is responsible for the deterrence of eight murders (Ehrlich 1975). Social scientists found several flaws in Ehrlich’s study including Ehrlich’s failure to include key demographic factors; factors that eliminated the deterrence strategy found in Ehrlich’s original research (Costanzo 1997, 101).

William Bowers and Glen Pierce’s study on Brutalization Theory analyzed monthly records of executions and homicides in the State of New York from 1907 – 1964. Brutalization theory suggests that the death penalty leads to more murders than it stops (Thompson 1997). Their study concluded that if more than one execution in any month occurred, then two additional homicides would result in the following month (Bowers and Pierce 1980).

Bedau and Radelet did a study of people who have previously been convicted of murder and released from jail to establish a connection between repeat offenders of Capital Crimes. This study would relate to the incapacitation argument (Nathanson 2001, 30). From 1900 – 1976, of the 2,646 subjects in the study, only 16 committed another murder (Bedau and Radelet 1987). A later nationwide study of the same content revealed that, from 1965 – 1974, 34 of 11,404 committed another murder in the year after being released (Nathanson 2001, 30).

In Wendy Wolfson’s study related to the idea that the threat of the death penalty acts as a deterrent to criminals that have been convicted of murder killing guards and staff while in prison (Nathanson, 2001, 30). She examined records of prison homicides and found that the majority of
prison homicide victims are inmates (Wolfson 1982). She also found that most cases of prison homicide are committed by criminals convicted of crimes other than murder (Wolfson 1982). Lastly, she found that prison homicides did not happen in more abundance in non-death penalty states (Wolfson 1982).

In 1990, William Bailey examined the effect television coverage, both explicit and vague, had on murder rates (Bailey 1990). No real deterrence effect was found (Bailey 1990).

Peterson and Bailey formed the most extensive study in 1994 by studying police killings from 1976 until 1990 (Costanzo 1997, 103). They looked at various types of police killings and took into account how many times executions occur when police are killed, the total amount of times executions have occurred as a result of police killings, the amount of media attention given in cases where police have been killed, as well as the medium of media coverage given (Bailey 1994). Even when they controlled for influences like race, population, age, divorce rate, unemployment, and welfare and other relevant factors, they did not discover a deterrent effect (Bailey 1994).

Dr. John Tures and his POLS 3300 Research Methods students found that, of the 25 states with the lowest murder rates, 11 states have the death penalty. In addition, they found that 20 of the 25 states with the highest murder rate also had the death penalty (Tures et al 2016).

What is a hypothesis?

In Essentials of Political Science (2000), author Alan D. Monroe describes a hypothesis as, “an empirical statement derived from a theory.” Hypothesis are confirmed through
experiments, which increase or decrease our confidence in our general theory (Monroe 2000, 19).

Hypotheses make statements about variables (Monroe 2000, 19). A variable is an empirical property that changes values (Monroe 2000, 19). A hypothesis that describes one variable is univariate and a hypothesis that analyze the relationship between two or more variables is multivariate (Monroe 2000, 19).

Within a hypothesis, the relationships between variables can be positive, negative or nominal (Monroe 2000, 19). In positive or direct relationships, the values of both variables rise (Monroe 2000, 19). In negative or inverse relationships, as the value of one variable rises, the value of the other variable drops (Monroe 2000, 19.) In nominal relationships, one or more of the variables is immeasurable quantitatively (Monroe 2000, 20).

**Deterrence Hypothesis**

My hypothesis is to test whether a year after states discontinue the use of the death penalty, their murder rates will rise. The variables that this hypothesis will describe are the presence or absence of the death penalty (independent) and the murder rate (dependent). The death penalty is either present or not present and the murder rate is either high or low. Since this hypothesis attempts to establish a relationship between two variables, then it is bivariate (Monroe 2000, 19). In this hypothesis, the variables have a negative relationship to each other. The use of the death penalty is decreasing, while the murder rate is increasing.
Research Design

In order to answer the question, does the death penalty deter murder, I will analyze the murder rates of states that abolished the death penalty the year before abolition and the year after abolition in order to see if there is a significant change in average murder rates. I believe that analyzing states before and after their abolishment of the death penalty will give me a definitive answer as to whether the death penalty deters crime. If the average murder rate in states is higher after the abolishment than the average murder rate in states before they abolished, then there may be a deterrent effect.

After collecting the data, I will then determine the murder rates in both categories, then get an average in both categories. Next, I will then look at which states had the largest shifts in murder rates. Finally, I will compare the averages in both categories. This will allow me to compare the change in murder rate from the year before states abolished the death penalty until one year after they abolished the death penalty.

It must be noted that data for six states was unavailable, as state murder rates were only available as early as 1960. Michigan (1846), Wisconsin (1852), Maine (1886), Minnesota (1910), Hawaii (1956), and Alaska (1956) all abolished the death penalty before 1960. Also, Washington, D.C. is included because the population, 681,170, is comparable to other states on the list, including Vermont which is 624,594 and North Dakota which is 757,952 (United States Census Bureau 2016). Additionally, residents in Washington D.C. are subjected to federal and local taxes.
After collecting data, I calculated an average murder rate of 5.97 per 100,000 inhabitants in states before the death penalty was abolished. On the other hand, I calculated an average murder rate of 5.87 per 100,000 inhabitants, a difference of .10.

Looking at single states, the largest shifts between one year before the abolishment and one year after abolishment was Vermont which rose from a murder rate of 1.1 before abolishment to 2.2 after abolishment; a difference of 1.1. Conversely, Delaware, the most recent state to abolish, dropped from a murder rate of 6.7 in before abolishment to 5.8 a year after abolishment; a difference of .9.

Below, Table 1: “An analysis of Murder Rates in States to Abolish the Death Penalty during the Year before Abolishment and the Year after Abolishment,” illustrates the findings of this study.

<table>
<thead>
<tr>
<th>Year Death Penalty Abolished</th>
<th>State</th>
<th>Year Before Abolishment</th>
<th>Murder Rate</th>
<th>Year after Abolishment</th>
<th>Murder Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1847</td>
<td>Michigan</td>
<td>1846</td>
<td>1848</td>
<td>1847</td>
<td>1853</td>
</tr>
<tr>
<td>1853</td>
<td>Wisconsin</td>
<td>1852</td>
<td>1854</td>
<td>1853</td>
<td>1887</td>
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<tr>
<td>1887</td>
<td>Maine</td>
<td>1886</td>
<td>1888</td>
<td>1887</td>
<td>1911</td>
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<tr>
<td>1911</td>
<td>Minnesota</td>
<td>1910</td>
<td>1912</td>
<td>1911</td>
<td>1957</td>
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<tr>
<td>1957</td>
<td>Alaska</td>
<td>1956</td>
<td>1958</td>
<td>1957</td>
<td>1965</td>
</tr>
<tr>
<td>1966</td>
<td>Iowa</td>
<td>1964</td>
<td>1.3</td>
<td>1966</td>
<td>1964</td>
</tr>
<tr>
<td>1965</td>
<td>West Virginia</td>
<td>1964</td>
<td>3.7</td>
<td>1966</td>
<td>1964</td>
</tr>
<tr>
<td>1972</td>
<td>Vermont</td>
<td>1971</td>
<td>1.1</td>
<td>1973</td>
<td>1972</td>
</tr>
<tr>
<td>1974</td>
<td>North Dakota</td>
<td>1973</td>
<td>0.8</td>
<td>1975</td>
<td>1974</td>
</tr>
<tr>
<td>1984</td>
<td>Massachusetts</td>
<td>1983</td>
<td>3.5</td>
<td>1985</td>
<td>1984</td>
</tr>
<tr>
<td>1984</td>
<td>Rhode Island</td>
<td>1983</td>
<td>2.7</td>
<td>1985</td>
<td>1984</td>
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<table>
<thead>
<tr>
<th>Year</th>
<th>State</th>
<th>Year</th>
<th>Murder Rate</th>
<th>Year</th>
<th>Murder Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>New York</td>
<td>2006</td>
<td>4.8</td>
<td>2008</td>
<td>4.3</td>
</tr>
<tr>
<td>2009</td>
<td>New Mexico</td>
<td>2007</td>
<td>7.2</td>
<td>2010</td>
<td>6.8</td>
</tr>
<tr>
<td>2011</td>
<td>Illinois</td>
<td>2008</td>
<td>5.5</td>
<td>2013</td>
<td>6.0</td>
</tr>
<tr>
<td>2012</td>
<td>Connecticut</td>
<td>2009</td>
<td>3.6</td>
<td>2013</td>
<td>2.4</td>
</tr>
<tr>
<td>2013</td>
<td>Maryland</td>
<td>2010</td>
<td>6.3</td>
<td>2014</td>
<td>6.1</td>
</tr>
<tr>
<td>2016</td>
<td>Delaware</td>
<td>2011</td>
<td>6.7</td>
<td>2017</td>
<td>5.8</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>5.97</td>
<td></td>
<td>5.87</td>
</tr>
</tbody>
</table>

*Data from 1960 to 2013 is from the Disaster Center. Rates are per 100,000*

*Data from 2014 to 2017 is from FBI Crime Data. Rates are per 100,000*

**Analysis of Findings**

Although the difference between the average murder rate of states a year before the death penalty was abolished and the average murder rate a year after the abolishment was only 0.10 the year after abolishment, as per my hypothesis, I was shocked. I thought that the average murder rate the year after abolishment would be significantly higher. I also expected there to be a larger difference between the two averages. I suspect that the results would have been significantly different if there was available data for Michigan, Wisconsin, Maine, Minnesota, Hawaii, and Alaska.

Even though the average murder rate was 0.10 percent higher a year after the abolishment of the death penalty, I do not think that that is a significant enough difference to say that capital punishment is a deterrent to murder. Nathanson points out that correlation does not always relate to cause. In this sense, the instance of crime rates rising or falling cannot be automatically attributed to a punishment simply because the desired outcomes are the same (Nathanson 2001, 21). Location, income level, biological factors, availability and cost of weapons, drug use, parenting, and social disorganization could all contribute to higher crime rates (Passell and
Taylor 1977). In the New York Times article “Homicide Rates Jump in Many Major U.S. Cities, New Data Shows (2016),” authors Eric Lightblau and Monica Davey cite financial instability, the rise of the heroin epidemic, and gang activity for rises in homicides in major cities. James Comey, Director of the Federal Bureau of Investigation, attributes rises in homicide to milder policing tactics (Lightblau and Davey 2016). Lastly, researchers at the University of Chicago crime lab analyze issues like spending on social programs, public school systems, mental health funding, and criminal investigation clearance rates (Ford 2017). With the fourth highest murder rate of developed countries (Kiersz and LoGiurato 2015), there are a multitude of reasons that crime could rise or fall.

Cost Literature Review

An Eye for an Eye: The Immorality of Punishing by Death

In An Eye for an Eye: The Immorality of Punishing by Death, author Stephen Nathanson argues that supporting the death penalty solely for economic reasons presents flaws because this argument implies that the death penalty must be applied for all crimes in which life imprisonment is the alternative punishment simply because the death penalty is cheaper than life imprisonment (2001, 34). Instead, he believes that they simply mean that murderers deserve to die (Nathanson 2001, 35). According to Nathanson, anyone who offers the notion that the death penalty is cheaper than life imprisonment is incorrect because we cannot merely compare the expenses of imprisoning an individual for life vs executing them, we must take into account collateral costs associated with the death penalty like more complex and lengthy capital trials, mandatory appeals, attorneys’ fees, and extra facilities (2001, 36). Solving the issue of high legal and judicial fees is not a simple as cutting costs because much of what drives up the costs of
capital cases are constitutional procedures that safeguard the due process of the accessed (Nathanson 2001, 39). Ultimately, Nathanson comes to the conclusion that the death penalty is not economical since legal and judicial costs are greatly augmented if the defendant has a chance of being executed (2001, 41).

*Just Revenge: Costs and Consequences of the Death Penalty*

In *Just Revenge: Costs and Consequences of the Death Penalty*, author Mark Costanzo explains that the attraction of the “cheaper-to-execute notion” is misguided (1997, 60). The cost of capital punishment includes more than just housing and meals; capital cases incur the costs of upholding an extensive system that absorbs a significant amount of resources (Costanzo 1997, 60). With complex capital trials, extensive investigations, extra professional staff, jury selection, attorneys’ workload, appeals, and maintenance of facilities, simply executing a defendant is the only a small percentage of death penalty costs (Costanzo 1997, 65). Also counties are liable for a lopsided portion of the costs associated with capital trials (Costanzo 1997, 61). According to Costanzo, eliminating the death penalty would save American tax payers a yearly sum of $90 million (1997, 60). Costanzo concludes that the death penalty is a bad policy since the death penalty fails to keep our streets safer and is much more pricier than the its alternative, life without parole (Costanzo 1997, 61).

**Cost Theory**
For the research question asking if the death penalty is a fiscally responsible law enforcement policy, I theorize that life imprisonment is a more economically sound law enforcement policy than Capital Punishment.

The financial efficacy of the death penalty is worth researching because capital punishment is paid for with public funds – funds that aren’t unlimited. In theory, our tax dollars should be used for the implementation and supplementation of the most beneficial policies and programs to society.

**Cost Hypothesis**

From the theory that the death penalty is not a fiscally responsible law enforcement policy, I hypothesize that life imprisonment is a more cost-effective policy than the death penalty. The variables that this hypothesis describes are type of punishment (independent) and cost of the punishment (dependent). Both variables have 2 variables. The type of punishment is either present or not present and the cost is either high or low. In this hypothesis, cost has a negative relationship with life imprisonment (or a positive relationship with the death penalty). Because two variables are involved in this hypothesis, it is bivariate.

**Cost Research Design**

In order to test the hypothesis that life imprisonment is a more cost-effective policy than the death penalty, I will examine literature and statistics from several sources on the topic. By analyzing these sources, I will develop a better understanding of the costs of capital punishment and the costs of life imprisonment. I will not only examine the costs, but also study why these
costs exist. I will then be able to determine which method of punishment is the most economical.

Results

The economic theory death that penalty supporters often use rests on the supposition that imprisoning a murderer for life is less expensive than execution, so execution should be the method of punishment (Nathanson 2001, 33).

Nathanson believes that proponents of the economic argument in support of the death penalty are trying to make a different point. Instead of saying that the cheapest option should be utilized, Nathanson argues that they actually mean that “murderers deserve to die (2001, 34). Costanzo asserts that an argument for the death penalty that is singularly focused on economics is irrelevant when the life of someone is at stake (1997,59). Nathanson argues, “If one favored executing murderers rather than imprisoning them simply because executions are less costly than imprisonment, then one would have to favor executing all those who commit crimes for which imprisonment is the usual punishment because this would be economical (2001, 34).” Applying an economic strategy to punishments does not simply mean opting for the cheaper punishment, but effectiveness and appropriateness must be considered as well (Nathanson 2001, 34). Simply choosing the cheapest option would ignore any benefit associated with a particular punishment and choosing the option that yields the most results would ignore budgetary and logistical concerns. Nathanson eventually redefines the economic argument: “If my account is correct, then few people support executions just because they are cheaper. Rather, they think it is permissible to save money by executing murderers because they think that murderers deserve to die anyway (2001, 35).
Proponents of the economic argument are also misled because they oversimplify the argument (Costanzo 1997, 62). Yes, the act of executing someone is far less cheap than imprisoning someone for life, but the analysis doesn’t end there. Because of the life at stake during capital cases, the process is lengthier and more extensive. The death penalty is costly for several reasons.

**Trial**

Capital trials are bifurcated, meaning that the trial is separated into a guilt phase and a penalty phase (Capital Punishment in Context). In the guilt phase, the defendant is rendered guilty or innocent by a jury (Capital Punishment in Context). If the defendant is found guilty, the defendant goes to the penalty phase of the trial, where the jury determines if the defendant should be executed (Capital Punishment in Context). Due to the penalty phase, pretrial investigators extensively examine both the crime and the offender (Costanzo 1997, 63). Additionally, mental health professionals, polygraphs, forensic scientists and jury-selection consultants add to costs (Costanzo 1997, 63). Selecting jurors in all will costs about $30,000.

**Attorneys**

The heavy workload in capital cases frequently requires 2 attorneys (Costanzo 1997, 65). A majority of the defendants cannot afford legal counsel, which means that the state must bear the costs of the defendant’s counsel in addition to prosecutors (Nakkell 1978). Capital guilt phases require about 10 to 20 times as much billable hours and up to six times as many motions as noncapital cases (Nathanson 2001, 63).

**Appeals**
In most states, automatic reviews by the state supreme courts are required post-trial if a death sentence if decided by the jury (Nakkell 1978). These reviews often result in retrials because legal malpractice, jury misconduct and fabricated evidence (Nakkell 1978). The average death penalty appeal costs between $170,000 and $219,000 (Costanzo 1997, 64).

**Facilities**

Within prisons, death row facilities must be erected (Nathanson 2001, 36). Also, construction, upkeep, and operation of execution chambers must also be taken into account (Costanzo 1997, 65). Lastly, in addition to the maintenance of the chamber, staff must be hired to properly run the apparatuses (Costanzo 1997, 65).

**Time**

In noncapital cases, jury selection may take 2-3 days, whereas it make over two weeks in capital cases because there is a small selection of prospective jurors willing to commit to in a trial that may last multiple months (Garey 1985). Jurors must also meet death qualification, meaning that they must be willing to consider, as opposed to being completely against it (Britannica 2002).

In total, capital trials usually last about 42 days in capital cases compared to 12 days in noncapital cases (Garey 1985).

Describing the vast and enormous capital punishment system, Costanzo states, “When we think about the death penalty, we are tempted to think of the isolated execution of a particular individual… When we consider the financial costs of the death penalty we need to keep in mind
that we are evaluating a system. Otherwise, we will underestimate the financial costs of maintaining it. (2001, 38).

Although costly, the punishment of life imprisonment without the possibility of parole presents lighter figures. The construction of cells cost about $5,000 annually, while the maintenance costs about $20,000 annually (Costanzo 1997, 60). Figures for life imprisonment must be multiplied by the amount of years an inmate will be alive. The average costs of life imprisonment range from $750,000 to $1.1 million per prisoner (Paternoster and Kazaka 1988).

State Data

Arkansas: In 1970, Arkansas commuted the death sentences of 15 inmates and saved around $1.5 million in appeals (Garey 1985).

California: It is estimated that tax payers could save over $90 million annually by discontinuing capital punishment (Costanzo 1997, 61). From 1977 to 1996, California spent over $1 billion on the death penalty, while only executing 5 people (Costanzo 1997, 61).

If the Governor of California commuted the sentences of the remaining death row inmates to life without parole, California would save $170 million annually, and $5 billion over the next 20 years (Alarcon and Mitchell 2011).

Colorado: Selecting a jury in capital cases takes about a day and a half, while jury selection in capital cases takes about 26 days (Marceau and Whitson 2013). Cases where the defendant is sentenced to life imprisonment take about 526, capital cases take an average of 1,902 days to complete; a difference of almost 4 years (Marceau and Whitson 2013).
Indiana: A 2002 study by the Indiana Criminal Law Study Commission, revealed that trial and direct appeal costs were 10 times as much as costs for life imprisonment cases. The average capital crime case costs $449,887, while the average cost of successful life imprisonment convictions was $42,658 (Legislative Services Agency 2002). The total cost of Indiana’s capital punishment system is 38% higher than the punishment of life without parole (Legislative Services Agency).

Kansas: In a 2003 performance audit report of the Kansas Department of Corrections, the State of Kansas found that investigations for capital cases cost triple what noncapital cases cost, trial costs are 16 times more costly for capital cases than noncapital cases, and appeals for capital cases are 21.

Kentucky: “Since 1976 Kentucky has spent more than $100 million to maintain a death penalty system that has executed three people (Monahan 2009).”

Louisiana: Even though Louisiana’s last execution was in 2010, the Department of Corrections estimates that housing death row inmates costs $1.52 million per year, and the Louisiana Public Defender Board spends about 28% of its annual budget on capital cases, totaling about $9.5 million last fiscal year. That cost has also contributed to Louisiana's chronic underfunding of public defender services for non-capital cases across the state.

Maryland: At every phase of a case, capital cases are more expensive than noncapital cases (McMenamin 2008). Since 1978, Maryland taxpayers have paid $186 million to execute 5 death row inmates. (McMenamin 2008). That is $37.2 million per executioner (McMenamin 2008). From 1978 to 1999, the state of Maryland could have saved $186 million if they did not pursue capital convictions (McMenamin 2008). Including investigations, trials, appeals and
incarcerations, the average capital case costs about $3 million, which is about $1.9 million more than non-death penalty cases (McMenamin 2008).

**Missouri**: Missouri taxpayers pay about $384,390.37 per capital case, compared to about $372,931.52 per life without parole case (Bergquist 2015).

**New Jersey**: Enacting the death penalty would cost the state about $16 million annually (Garey 1985).

**New Mexico**: Bringing back capital punishment could cost more than $7 million in the first three years alone (New Mexico Legislative Finance Commission 2017).

**New York**: It would cost $1.4 million in initial trial fees, plus another $300,000 in appeals fees to carry out one capital case (Garey 1985). The New York Department of Correctional Services calculated that it would cost $118 million dollars annually to restore the death penalty (Costanzo 1997, 1961).

**Nebraska**: Capital cases are about $1.5 million dollars more expensive than cases where life without parole was sentenced (Gross, et al 2016). Nationally, states with capital punishment systems spend about $23.2 million more than non-death penalty states (Gross, et al 2016). States with the death penalty spend on average about 3.54% of their budgets on capital punishment, while states without the death penalty spend about 2.93% of budgets on life imprisonment (Gross, et al 2016).

**Nevada**: Capital cases cost an average of $170,000 to $212,000 more than life imprisonment cases (Miethe 2012).
**North Carolina:** A 2009 study by Duke University Economist found that North Carolina could save about $11 million per year if they abolished the death penalty (Cook 2009). He also found that over $21 million in extra defense costs, payments to jurors, and resentencing hearings could have been saved between the years 2005 and 2006 had the death penalty not been in place (Cook 2009).

The study “The Costs of Processing Murder Cases in North Carolina,” revealed that North Carolina spends $2.16 million per death penalty case than per non death penalty murder case where life imprisonment was sentenced (Cook and Slawson 1993). They also found that, nationally, an extra $1 billion has been spent on capital punishment since 1976 (Cook and Slawson 1993).

**Oregon:** Capital punishment in 61 cases in Oregon cost about $2.3 million each, while 313 comparable aggravated murder cases cost about $1.4 million each (Kaplan, Collins, and Mayhew 2016). The study also found that capital punishment expenses are continually rising over time, from $274,209 in the 1980s to $1,783,148 in the 2000s (Kaplan, Collins, and Mayhew 2016).

**Texas:** Every capital case cost about $2.3 million, triple the cost of imprisonment in maximum security for 40 years (Costanzo 1997, 61).

**Tennessee:** In Tennessee, capital trials are 48 percent more expensive than non-death penalty cases (Morgan 2004).

**Washington:** Death penalty cases cost an estimated $470,000 for prosecution and defense. Trying the same case as an aggravated murder without the death penalty and costs about $47,000 to $70,000 (Washington Bar Association 2006).
Wisconsin: The Wisconsin Legislative Bureau appraised that restarting the use of capital punishment would cost between $1.6 million and $3.2 million per execution (Costanzo 1997, 1961).

Cutting Costs

Nathanson points out that death penalty proponents may claim that it isn’t the executions that drive up expenses, but number of process and procedures within the judicial system (2001, 38). Accordingly, they may posit that we can make the death penalty cheaper by cutting costs within the capital punishment system. Nathanson warns that this argument is dangerous because it disregards any respect for human decency and justice (2001, 38). According to Supreme Court Justice Sandra Day O’Connor, “Among the most important and consistent themes in the Court’s death penalty jurisprudence is the need for special care and deliberation in decisions that may lead to the imposition of that sanction. The Court has accordingly imposed a series of unique substantive and procedural restrictions designed to ensure that capital punishment is not imposed without the serious and calm reflection ought to precede any decision of such gravity and finality.” As does most people, Justice O’Connor recognizes the high costs of the capital punishment system, but also reasons that the system must provide the proper constitutional protections in order to make sure that system does not work unfairly and inequitably. According to Costanzo, “There is no bargain-basement version of justice in death penalty cases. Any further attempt to bypass these safeguards would violate the constitutional rights of the defendant, exacerbate racially discriminatory death sentencing and increase the number of innocent people sent to the execution chamber (1997, 67).”
Our society is not in an extreme situation where we cannot house criminals or properly maintain them, so executing them is unnecessary (Nathanson 2001, 40). Also, if the option is not there to remove the expensive, but essential constitutional defenses from discrimination within the capital punishment system, then the best financial decision for policy makers is to discontinue the capital punishment system (Nathanson 2001, 40).

Analysis of Findings

The results of the studies that I analyze on the capital punishment and its alternative, life without parole, revealed a fact that is not shocking at all: life imprisonment is a far more economical punishment. States from all different regions and with vastly different demographic all have the same issue capital punishment costs. I think that I can definitively say that the hypothesis that life imprisonment without parole is a more cost-effective policy.

What shocked me the most was how much taxpayers are paying for so few executions. Since 1976, Kentucky and Maryland have spent a combine $286 million to execute a combined eight prisoners. Equally shocking is the time invested into the capital punishment system. If resources were poured into other areas of our correctional systems, inmates could benefit from clean and adequate facilities, mental health assistance, educational curriculums, diversionary programs and other programs that rehabilitate inmates and prevent incarceration. If investigative departments within the criminal justice system had more funds, then situations of police brutality could be avoided, innovative strategies and procedures could be explored and the public would be safer. If courts were able to eliminate costs associated with the capital punishment system, then prosecutors and public defenders could have lighter workloads. Lastly, if taxpayer dollars
weren’t wasted on these inhumane execution, then counties and states wouldn’t have to raise
taxes simply to fund the killing of people.

While we have the capital punishment system, it is important that we keep the
constitutional safeguards allotted to prisoner, no matter how expensive they are. I think it only
exposes the irrationality in the system because the legal protections for the prisoners are the main
source of the astronomical differences between the costs of the two punishments.

Conclusion

The Pew Research Center, a nonprofit think tank that performs public polling and
demographic research analysis, finds that 49 percent of Americans support the death penalty for
murderers, as opposed to 42 percent in opposition (2016). Support is at its all-time lowest in 40
years (Pew Research Center 2016).

By researching the deterrence and economic elements of the death penalty, I realized how
irrational and ineffective capital punishment is in the United States. Very generously speaking,
the death penalty has no concrete deterrence effect. Also, the capital punishment system in the
United States has proved to be grossly uneconomical when compared to the alternative
punishment.

Policymakers have a huge responsibility when it comes to the topic of capital
punishment. Only 34 percent of Democrats support the death penalty, while 72 percent of
Republicans do (Pew Research Center 2016). I think that this stems from Democrats opting more
for a restorative form of justice, whereas Republicans take pride in being ‘tough on crime.’ If the
majority of the vast majority of the literature on deterrence finds that the death penalty fails to
deter crime and even create a culture where crime is acceptable, then the tough on crime argument must evolve.

    Unless, perhaps, deterrence isn’t the goal. A 2017 poll from Rasmussen Reports finds that most Americans favor the death penalty even though they think it doesn’t deter crime (Rasmussen Reports 2017). If people accept that deterrence and the death penalty are not correlated, then revenge must be the answer. In which case, I would assert that since 1973, 158 people have been exonerated from death row (Death Penalty Information Center 2017). Additionally 13 death row inmates have been found innocent post execution. How can we seek revenge in such a forceful manner when the uncertainty of convictions is significantly alarming?

    In the future, I believe that the responsibility is on every day citizens to pressure elected officials. Of course, there are several organizations, attorneys, and think tanks that are already advancing the issue, but everyday citizens must be the ones to become educated on the subject and further advance the issue of capital punishment. In the book Death by Design, author Craig Haney finds that the more in-depth knowledge individuals have about the capital punishment system, the least likely they are to support in (2005).

    I still cringe thinking about the heinous crimes that are committed by people on death row, but I am energized by the idea that people could possibly be restored and one day offer apologies to families. I think that a sincere apology gives more closure than an execution. I also know that there are some inmates on death row who are innocent. Even if their innocence is found after their execution, justice is absent because executions are irreversible. Although time and freedom is lost, life imprisonment allows the opportunity for mistakes within the capital punishment system to be found. Lastly, I know that inmates who have committed heinous crimes still have
the potential to be the next teachers, researchers, innovators and maybe even ministers. Anyone is capable of making a positive impact on society, whether incarcerated or not, but there is no viable reasons for the states to be killing human beings in 2017.

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