STANLEY ADAMS NAWAZ AHMED **WILFORD BERRY, JR.** DAVID ALLEN ANTHONY APANOVITCH **JAY D. SCOTT** ABDUL AWKAL TYRONE BALLEW **JOHN WILLIAM BYRD,** JR. RICHARD BAYS RICHARD BEASLEY **ALTON COLEMAN** ANTHONY BELTON ROBERT BETHEL MELVIN BONNELL **ROBERT ANTHONY BUELL** DAVID BRADEN GRADY BRINKLEY **RICHARD EDWIN FOX** GEORGE BRINKMAN ROMELL BROOM QUISI BRYAN **DAVID M. BREWER** CEDRIC CARTER SEAN CARTER **ERNEST MARTIN** AUGUST CASSANO STEVEN CEPEC **LEWIS WILLIAMS, JR.** DAVEL CHINN CURTIS CLINTON **JOHN GLENN ROE** TIMOTHY COLEMAN DOUGLAS COLEY **WILLIAM DEAN WICKLINE** JAMES CONWAY III DERRICK COOK **WILLIAM G. ZUERN, JR.** WARREN WADDY JERONIQUE CUNNINGHAM ROLAND DAVISVON DAVIS **STEPHEN ALLEN VRABEL** ARCHIE DIXON JOEL DRAIN **WILLIAM G. ZUERN, JR.** JOHN DRUMMOND PHILLIP ELMORE GREGORY ESPARZA **SCOTT ANDREW MINK** STANLEY FITZPATRICK SHAWN FORD **ADREMY DENNIS** ANTONIO FRANKLIN TERRY FROMAN **WILLIAM SMITH** CLARENCE FRY JR. LARRY GAPEN **HERMAN DALE ASHWORTH** KRISTOFER GARRETT JOHN GILLARD **WILLIAM JAMES "FLIP" WILLIAMS,**

At All Costs:

JR. JAMES GOFF DAMANTAE GRAHAM **JOHN R. HICKS** SHAWN GRATE SCOTT GROUP DELANO HALE **GLENN LEE BENNER II** GERALD HAND JAMES HANNA JEROME HENDERSON **JOSEPH LEWIS CLARK** WARREN HENNESS DANNY HILL TIMOTHY HOFFNER **ROCKY BARTON** WILLIE WILKS JR. ANDRE "KOKOMO" WILLIAMS **DARRELL WAYNE FERGUSON** GARY HUGHBANKS LANCE HUNDLEY **JEFFREY LUNDGREN** LAMONT HUNTER PERCY HUTTON **JAMES J. FILIAGGI** ANDRE JACKSON CLEVELAND JACKSON **CHRISTOPHER NEWTON** JEREMIAH JACKSON KAREEM JACKSON **RICHARD COOEY** NATHANIEL JACKSON STANLEY JALOWIEC **GREGORY BRYANT-BEY** MARVIN JOHNSON ELWOOD JONES **DANIEL E. WILSON** ODRAYE JONES/MALIK AKBAR PHILLIP JONES **JOHN JOSEPH FAUTENBERRY** DONALD KETTERER

The High Cost of the Death Penalty in Hamilton County and the Extreme Disparities it Drives

JUAN KINLEY **MARVALLOUS KEENE** ANTHONY KIRKLAND THOMAS KNUFF JR. **JASON GETSY** KEITH LAMAR/BOMANI SHAKUR LAWRENCE LANDRUM **KENNETH BIROS** EDWARD LANG ARRON LAWSON **VERNON LAMONT SMITH** CARL LINDSEY CHARLES LORRAINE **MARK AARON BROWN** GREGORY LOTT JOSE LOZA **LAWRENCE RAYMOND REYNOLDS** RALPH LYNCH CLARENCE MACK MICHAEL MADISON **DARRYL M. DURR** JAMES MAMMONE DAVID MARTIN CHARLES MAXWELL **MICHAEL FRANCIS BEUKE** JOSEPH MCALPIN CALVIN MCKELTON **WILLIAM GARNER** GREGORY MCKNIGHT FREDDIE MCNEILL **RODERICK DAVIE** JONATHAN MONROE CARON MONTGOMERY LEE MOORE **MICHAEL W. BENGE** SAMUEL MORELAND FREDERICK MUNDT **FRANK G. SPISAK, JR.** AUSTIN MYERS DAVID MYERS **JOHNNIE ROY BASTON** CALVIN NEYLAND JR. MATTHEW NICHOLSON **CLARENCE CARTER** TYRONE NOLING DENNY OBERMILLER **DANIEL LEE BEDFORD** JAMES ONEAL GREGORY OSIE **REGINALD BROOKS, SR.** JAMES TENCH ASHFORD THOMPSON JAMES TRIMBLE **MARK WAYNE WILES** KERRY PEREZ MARK PICKENS WAYNE POWELL **DONALD PALMER** WALTER RAGLIN JASON ROBB DONNA ROBERTS **BRETT XAVIER HARTMAN** MARTIN ROJAS CARLOS SANDERS/ SIDDIQUE ABDULLAH HASAN WILLIAM SAPP **FRED ERICK TREESH** MICHAEL SCOTT KEVIN SCUDDER **STEVEN T. SMITH** BOBBY SHEPPHARD DUANE SHORT **HARRY D. MITTS, JR.** GEORGE SKATZES KENNETH SMITH **DENNIS B. MCGUIRE** DAVID SNEED ANTHONY SOWELL DAWUD SPAULDING JOHN STOJETZ **RONALD RAY PHILLIPS** JOHN STUMPF MICHAEL TURNER RAYMOND TWYFORD III MICHAEL WEBB JAMES WERE/ NAMIR ABDUL MATEEN HERSIE WESSON **GARY WAYNE OTTE** CHRISTOPHER WHITAKER CLIFFORD WILLIAMS **ROBERT J. VAN HOOK** ROBERT WILLIAMS JR. JEFFREY WOGENSTAHL JAMES WORLEY

Names above recognize the 138 people currently on Ohio's death row (regular text) and the 56 people Ohio has executed (bold).

Advocate Challenge Transform

IJPC INTERCOMMUNITY JUSTICE AND PEACE CENTER

Special thanks to the following for their considerable contributions:

Kendra Cashman *Intern, IJPC*
Chloe Corkery *Program Assistant, IJPC*
Abe Bonowitz *Co-Director, Death Penalty Action*
Hannah Kubbins *Executive Director, Ohioans to Stop Executions,*
Allison Reynolds-Berry *Executive Director, IJPC*
Staff *Hamilton County Clerk of Courts*

The **Intercommunity Justice and Peace Center (IJPC)** educates and advocates for peace, challenges unjust local, national, and global systems, and promotes the creation of a nonviolent society. IJPC is supported by faith-based organizations and individuals who work together to educate around justice issues, take collaborative action and engage in public witness. Through a framework of non-violence, IJPC works to end the death penalty in Ohio, educate about human trafficking, promote immigrant justice, and foster peace.

IJPC hosts a witness and press conference outside the Governor's Mansion in Bexley, OH weeks before Jerome Campbell was set to be executed in 2003. Then-Governor Bob Taft commuted his sentence days before his execution.

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THIS PROJECT HAS BEEN FUNDED (OR PARTIALLY FUNDED) BY THE CONGREGATION OF ST. JOSEPH GENEROUS PROMISE GRANT FUND.

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IJPC and friends stand outside the Lucasville Prison, where executions are carried out, as a presence opposing the execution of Ronald Phillips in July 2017.

Published December 2020

Introduction

Ever since the threat of resuming executions became a reality in 1999, the Intercommunity Justice and Peace Center (IJPC) has worked to end the death penalty in Ohio. Throughout the years, IJPC has worked for abolition by educating the Greater Cincinnati community about Ohio's ineffective, unjust death penalty system, advocated on behalf of individual inmates when appropriate, advocated for the needs of murder victims' families, and offered support to families with loved ones on death row.

As I carry on in this work at a time when Ohio hasn't seen an execution in almost two years, abolition looks like it's coming into clearer focus every day. But I think often of the work of the activists who paved the way for this moment and particularly of the Catholic sisters who, against the official position of the church in the nineties, advocated that the death penalty was always wrong and antithetical to the Christian charge-- after all, Jesus was a victim of capital punishment.

Today, many major religions oppose the death penalty. Like them, IJPC believes that the death penalty is morally wrong because each life has inherent dignity, that people have the capacity to change, and that we are more than the worst thing we have ever done. But religion and morality aren't the only reasons the death penalty should be abolished: capital punishment serves no rational purpose today.

We know that the death penalty does not make our communities safer by deterring crime. We also know that it is disproportionately applied to the poor and to Black defendants (especially those whose victims are white), and that from county to county and state to state, the death penalty's application is wildly uneven. We know that there are innocent people who have been freed from death row, and we know that means we have certainly executed innocent people, too.

To add insult to injury, the death penalty is extremely expensive. As Part I of this report will show, it is nealry twice as expensive to prosecute a capital case versus a life without the possibility of parole (LWOP) case. Considering that Ohio has executed only 56 people among its thousands of capital indictments and hundreds of death sentences, we're spending money pursuing executions that we know have very, very small chances of ever being carried out.

How much money and resources have been wasted on the 98% of capital indictments that end in something other than death? Why are we spending millions of dollars prosecuting a capital case knowing that there is only a 2% chance that decades-long battle will end in an execution?

Part II of this report explains the ways in which the death penalty is applied, and how its application leads to disparities that create injustice. Geographic and racial inequities, along with the lack of quality representation and the omnipresent possibility of innocence all pose significant barriers to justice. Considering these implications alongside the price tag for capital punishment makes the case for abilition even more convincing.

It's time for Ohio to stop performing its "tough-on-crime" act and abolish the vengeful, violent political weapon that is the death penalty. Especially during this time of racial reckoning and economic crisis due to the COVID-19 pandemic, it is clear that we need an economy and a justice system that is driven by the community's needs. It is time that we show compassion to the most broken among us, promote real healing for the grieving, and use data based reasoning to retire an expensive system that is draining our much needed resources and chipping away at our humanity.

Jessica Frank
Anti-Death Penalty Program Manager

Capital Punishment at a Glance

Soon after he was sworn into office early in 2019, Gov. Mike DeWine ordered the Ohio Department of Rehabilitation and Corrections to find a new lethal injection protocol that would pass constitutional challenges. In the year that followed, he delayed each of the seven executions scheduled (and rescheduled) to occur. In April 2020, DeWine commuted all three executions set for that year, and in September he delayed the first three executions set for 2021. Now, Ohio's use of capital punishment is on hold while the state continues its search for lethal injection drugs that they can legally obtain and use. Several political leaders have publicly opposed or questioned the relevance of Ohio's death penalty, including former Speaker of the House Larry Householder, former Ohio Supreme Court Justice and author of Ohio's death penalty law Paul Pfeifer, and former Ohio Govs. Bob Taft and Ted Strickland.

Before July 2020, use of the federal death penalty had become mostly obsolete. Between 1988 (the year the federal death penalty was reinstated) and 2020, the federal government executed only three individuals, and there had not been a federal execution from 2003-2020. But during the last six months of 2020, the Trump administration executed 8 people. As this report goes to print, two more people are set to be executed in December and three others in January. In a matter of months (and in the midst of a pandmic), the U.S. will likely double the amount of people it has ever executed in a single year, skyrocketing from the previous 1984 record high of 5 executions.

Generally, support for the death penalty has trended downward since the mid-1990s. Ohioans' feelings toward the death penalty haven't been measured since 2014. At that time, even though 70% supported the death penalty, those feelings changed significantly when given the chance to consider the alternative of LWOP, with only 43% of respondents favoring execution and 40% favoring LWOP.

More recent national studies echo these distinctions when LWOP is an option: a 2019 Gallup poll found that for the first time, a majority of Americans (60%) favor life in prison over the death penalty. Another national 2020 Gallup survey found that those who think the death penalty is morally acceptable has reached a record low at 54%.

Executive Summary

In Ohio as elsewhere, the death penalty can never be considered "fair" or "justified" because it is randomly applied based almost wholly on two factors: where a crime was committed and the race of the victim. As this report will show, capital defendants living in (usually urban) counties with prosecutors who use the death penalty often and those whose victims are white are much more likely to find themselves on death row than others, even if the facts of the crime are nearly identical.

The arbitrary injustice of capital punishment is made increasingly senseless when considering its exorbitant cost to counties and state government. Through a simple analysis looking at eight cases that exhausted all appeals and eventually ended in an outome other than a death sentence, our research indicates that the average cost of a death penalty case in Hamilton County is over $1 million--double the cost of trying a LWOP case. Notably, that estimate is conservative, given our data constraints.

The state of Ohio has yet to fund a study focusing on the cost of the death penalty. Thus, it is our hope that this report breaks open a larger conversation about the resource drain that is our capital punishment system. There are too many unserved needs in communities around the state to throw money at death sentences that will likely never be carried out. Furthermore, this report will show that sentencing people to death should not be pursued in the first place, considering that Ohio continues to impose them with bias to geography, race, and/or the defendant's wealth.

This report makes brief suggestions on how we could re-allocate capital punishment funds, though recommending detailed policy alternatives is beyond its scope. IJPC invites readers to imagine more productive ways our counties and state could spend millions of dollars.

Part I:
Funding Capital Punishment

What We Already Know

Research consistently shows that **the death penalty costs significantly more than alternative punishments,** such as LWOP. While some assume that the death penalty would eliminate prison costs including housing, meals, and healthcare, thereby making it a comparatively inexpensive punishment, careful consideration of the increased time and complexity of a capital case clearly proves otherwise.

While the total cost of a capital case varies between states, a 2008 report by the Death Penalty Information Center found that on average, a single death penalty trial costs at least $1 million more than a non-death penalty trial. It noted, "only one in every three capital trials may result in a death sentence, so the true cost of that death sentence is $3 million. Further down the road, only one in ten of the death sentences handed down may result in an execution. Hence, the cost to the state to reach that one execution is $30 million."[4]

> *"Only one in every three capital trials may result in a death sentence, so the true cost of that death sentence is $3 million. Further down the road, only one in ten of the death sentences handed down may result in an execution. Hence, the cost to the state to reach that one execution is $30 million."*[4]

Similarly, a 2016 study conducted by a conservative think tank estimated that over a two year period, **the average U.S. state with the death penalty would have saved $46,474,823 had that state eliminated the death penalty and replaced it with LWOP.**[5] That same year, a look at Pennsylvania's death penalty revealed that the state spent over $350 million on the death penalty over a period in which the state carried out just three executions.

The state of Ohio has yet to comprehensively evaluate the fiscal costs of the death penalty. But a 2014 partial investigation by the Dayton Daily News, which didn't account for the large costs incurred by the prison system, courts, or county prosecutor's office, found **at least $17 million in annual costs related to Ohio's death penalty.**[6] Similarly, in 2017, the Akron Beacon Journal compared the trial records and court expenses of a death penalty case to a non-death penalty case and found that the death penalty case cost ten times the non-death penalty case.[7]

Report Limitations

To estimate the average cost of a death penalty case in Hamilton County, IJPC examined the eight total cases that originally received a death penalty verdict after 1990 and were later reduced to a lesser sentence.

This report offers just a glimpse into what the entire county and state might spend on capital punishment. Capturing a fuller picture would require significantly more sophisticated research methods, and even those analyses, at best, would likely be conservative estimates, since data surrounding the costs of capital cases is often incomplete and/or inconsistent.

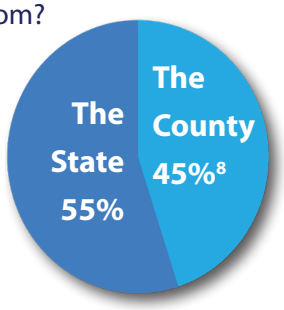
Given the lack of research into the fiscal costs of Ohio's capital punishment system, it is our hope that this analysis can provide a more complete look at what Ohio and its counties are spending on capital punishment so that we can intelligently discuss whether the exorbitant costs are an effective allocation of taxpayer dollars.

Death Penalty Expenses

The cost of the death penalty is much more than the price tag on execution drugs. There are five major factors that drive the cost of capital punishment:

Defense Costs

Where does the funding for defense attorneys come from?



Even in Hamilton County cases, the entire state of Ohio bears close to half of the legal costs arising out of indigent defense.

Court Costs

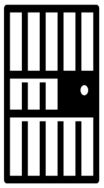
Increased time in court brings with it additional fees like...

- Filing fees
- Charges for serving subpoenas and summons

- Court reporter charges for depositions and court transcripts
- Costs for reproduction of papers and exhibits

Prison Costs

Ohio's death row inmates are held in maximum security, which often costs more than housing other inmates, like those serving life sentences.



Appeals Costs

Because death is irreversible, those on death row are afforded additional appeals. The entire appeals process can last decades.

Trial Costs

Pretrial

Experts who can testify about the defendant's history, mental health, and forensic evidence must be sought out and compensated for their testimony.

This contributes to a longer wait time before trial.

Which means defendants are held longer in pretrial detention, incurring more costs.

Jury Selection

Potential jurors must be thoroughly questioned about their views regarding the death penalty.

Those who strictly oppose the death penalty are often removed from the jury. The complexity of a capital case often makes jury selection longer.

Trial Costs

Death penalty trials can last more than **4 times** longer than non-capital trials, requiring more compensation for...

Jurors

Attorneys

Court Personnel

Other Court Costs[9]

Hamilton County Dollars Spent on Capital Punishment

This report examines eight cases that originally received a death sentence and were later reduced to a lesser sentence. Each case originated in Hamilton County after 1990. **The average case in this study cost $1,077,762.68.**[10] That's about double the cost of trying a LWOP case, which usually costs around $562,000.[11] **By trying and failing to secure a death sentence for just these eight cases, Hamilton County wasted over $8 million.**

These estimates are conservative, however, since the certain costs, such as total cost to prosecutors and the courts are unknown. In totality, Ohio likely spends much more on the death penalty annually; as reported by the Dayton Daily News, that number is probably close to $17 million per year.

Inmate	Rough Cost Estimate (in 2019 U.S. Dollars)
Shawn Hawkins	$1,343,253.66
Richard Nields	$948,690.79
Michael Bies	$981,450.03
Jeffrey Hill	$922,832.40
Raymond Tibbets	$1,228,942.37
Angelo Fears	$1,410,834.78
Darryl Gumm[12]	$440,044.76
Rayshawn Johnson	$1,353,852.67

Beyond the dollars spent, there is a high opportunity cost for trying each of these eight cases because the appeals process necessarily takes time. From the original indictment date to the time the death sentence was reduced, **the average case in this report took 16.5 years to complete.** Each of these cases ate up precious time from judges, lawyers, and court personnel working in a court system that is already overwhelmed. Each case also cost the families of both the murder victims as well as the defendants emotional trauma as well as time and money.

These costs are conclusively wasteful and negligent, considering that capital punishment fails to serve any purpose other than revenge. As the rest of this report will show, these millions of dollars support a system that is arbitrarily applied on the basis of geography and race, is relegated to those who cannot afford good representation, has no effect on crime, and continuously risks executing innocent people.

Real Justice Means Investing in Communities

Many who find themselves on death row have histories of abuse, mental illness, poverty, and other traumas. While IJPC believes in accountability, we also believe that justice does not include punishing those who are violent with more violence. Instead, our state should take a restorative justice approach and address violence in all its forms at the root. The following are just some ways that we could proactively reduce violence in our own communities rather than increasing it through executions:

- Increase access to mental healthcare. Ohio's prisons are the largest mental health provider in the state. As of 2015, over 1 in every 5 Ohio inmates was diagnosed with a mental illness, and there are 10 times as many mentally-ill inmates as there are patients in Ohio's six psychiatric hospitals. Notably, Black people, who are already over-represented in prisons, are likely to have even more barriers to mental healthcare, such as lack of insurance, misdiagnosis, mistrust of the healthcare system, and concerns about stigma.[13]
- Relieve the burden carried by social workers. Social workers provide care for people facing a multitude of challenges, including poverty, addiction, abuse, mental illness and more. As such they play a critical role in reducing violence in our communities. Ohio's social workers, however, are often overworked and underpaid. Large caseloads in school social work, child welfare, and community mental health continue to contribute to workplace stress and burnout.[14]
- Rethink community safety. One of the major reasons that people turn to violence in the first place is a lack of resources. Investing in communities' economies, environments, schools, and infrastructure all help uproot violence and create more peaceful neighborhoods.
- Increase services for murder victims' families. Some services are available to murder victims' families, but these services are also often housed adjacent to the prosecutor's office, which can be complicated depending on families' relationship with that office. Families are often too overwhelmed to properly access the available services. More services, like financial support or court provided family advocates, that are easier to access would help provide healing for victims' families.

Miami University and Xavier University students participate in IJPC's "Critical Issues in Criminal Justice" presentation.

Part II:
Inevitable Disparities

Capital Punishment in Context

OHIO:

56 executions

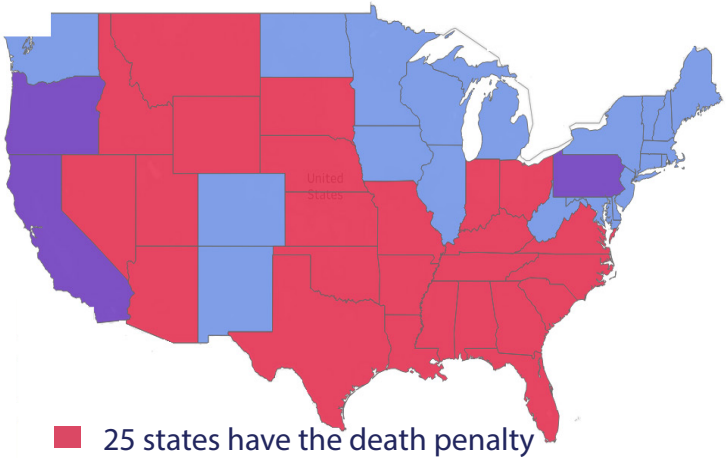
8th highest executing in country

143 active death sentences

140 people on death row

7th largest death row in country

Nationally:



25 states have the death penalty

22 states do not have the death penalty

3 states have a governor-imposed moratorium

Of the 25 states with the death penalty, only half actively carry out executions.

13 states have had executions in the last 5 years

6 states have not had an execution in over 5 years

7 states have not had an execution in over 10 years

Globally:

In 2019, Amnesty International recorded **657** executions. **The United States ranked 6th highest in number of executions,** preceded by China, Iran, Saudi Arabia, Iraq, and Egypt.

The Path to Ohio's Death Row[15]

Prosecutor charges defendant with aggravated murder and at least one statutorily defined aggravating circumstance.

Is the defendant over 18?

- No → Prosecutor cannot seek death penalty.
- Yes → County prosecutor decides, according to their own criteria or philosophy, whether to seek death penalty.
  - No, don't pursue capital trial → Defendant will be sentenced to a lesser punishment, such as LWOP or LWP.
  - Yes, pursue capital trial → **Pretrial phase, including jury selection** Does juror have opinions that would prevent them from recommending a death sentence?
    - Yes → Juror is removed from capital trial jury.
    - No → Juror can remain on capital trial jury.

Guilt Phase of Capital Trial Jury unanimously votes that defendant is guilty beyond a reasonable doubt.

Penalty Phase of Capital Trial If the jury finds that the aggravating circumstance(s) outweighs any mitigating factors beyond a reasonable doubt, they must recommend a sentence of death.

If the jury finds that the aggravating factors do not outweigh mitigating factors, the defendant is sentenced to LWOP or LWP.

Trial court reviews death sentence. If they disagree with death sentence they will sentence defendant to LWOP or LWP.

What are Aggravating Circumstances?
Aggravating factors are those that increase the severity or culpability of a criminal act, which usually leads to harsher punishments. Ohio defines 10 aggravating circumstances, which include: the victim was a law enforcement officer, crime was committed for hire, and the principal offender committed the crime during the course of a kidnapping, rape, aggravated arson, aggravated robbery, or aggravated burglary.

What are Mitigating Circumstances?
Mitigating factors include any evidence presented to the court -- regarding either the crime or the defendant-- that might lead to a lesser sentence. Examples include: the defendant's lack of a criminal history, a severe mental illness, childhood abuse, or playing a minimal role in the given crime.

The Appeals Process

The following judicial and executive reviews allege different reasons as to why the conviction or sentence should be overturned.

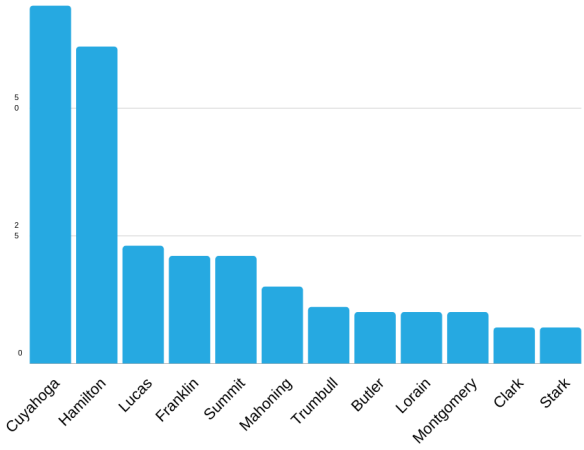
- Direct appeal in state court: alleges legal errors that appear within the trial record.
- Petition for post-conviction relief in state court: alleges legal errors that occurred outside the trial record.
- "Murnahan" appeal in state court: alleges they did not receive effective representation on direct appeal; this appeal is only available to death sentenced individuals.
- Petition for habeas corpus relief in federal court: requests the federal courts to release the prisoner because of a significant constitutional violation; cannot begin until one year after all state court appeals are finished.
- Clemency review by the Governor of the State of Ohio: governor can grant pardons, reprieves, and commutations to any state inmate. After state and federal appeals are exhausted, the Ohio Supreme Court sets an execution date. Then, clemency proceedings can begin.

Geographic Disparities

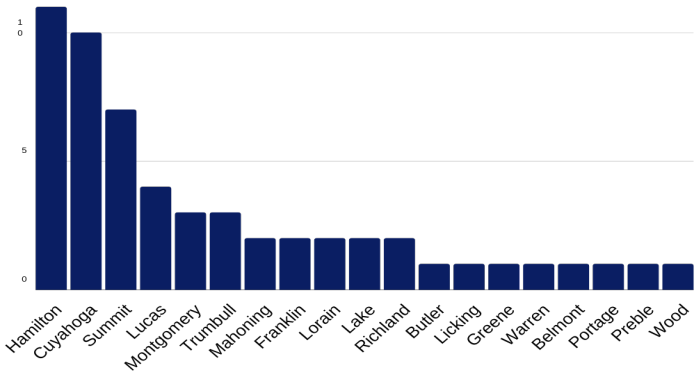
Ohio

From indictment to the execution chamber, Hamilton County is one of just a few counties that drive Ohio's use of the death penalty. Twenty-one people currently on death row are from Hamilton County, the most of any other county. At 62 people, it has sent the second highest number of people to death row, surpassed only recently by Cuyahoga County at 70. Both counties are trailed by a wide margin by Lucas County, who at 23 capital convictions is the third highest death sentencing county in Ohio. In fact, only 12 of Ohio's 88 counties have sentenced more than 5 people to die in the last 39 years, and 38 counties have never produced a death sentence.[16] Hamilton County has also executed more people than any county in Ohio, being responsible for 11 of the 56 total executions.

Death Sentences by County



Executions by County



> *These death sentences are cruel and unusal in the same way that being struck by lightning is cruel and unusual.*
>
> -US Supreme Court Justice Potter Stewart in *Furman v. Georgia* [1972]

5 counties
5 counties are responsible for over half of all death sentences

38 counties
have NEVER produced a death sentence

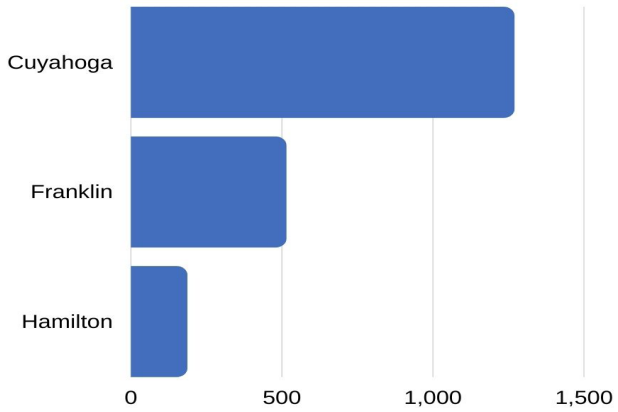
69 counties
have NEVER produced an execution

Geographic Disparities (cont.)

Ohio

It is not alarming in and of itself that indictment, sentencing, and execution rates vary across counties. If the death penalty were applied evenly across the state, we'd expect to see those variances attributed to fluctuations in murder rates. But even among the three counties with the most capital indictments, we see no such correlation: **while each of these counties has a nearly identical murder rate, Cuyahoga County has indicted more than six times the 186 people Hamilton County has indicted and almost 2.5 times Franklin County's 514 indictments** since 1981.[17] Similarly, at .60 executions per 100 homicides, **Hamilton County's execution rate is more than double the execution rate in Cuyahoga and nearly nine times the rate in Franklin County.[18]** Together, these three counties are responsible for almost 60% of all Ohio's capital indictments.[19]

Capital Indictments
(Top 3 Counties)



The Role of the Prosecutor

Why the discrepency between counties? In each county, the prosecutor has the sole discretion whether to seek the death penalty for a case that is death eligible. Because each prosecutor has their own philosophy that helps them decide whether to seek the death penalty, crimes with similar circumstances are pursued differently from county to county and even from case to case within the same county.[20]

In 2018, the Cincinnati Enquirer reported that Hamilton County prosecutor Joe Deters uses the following criteria to determine whether or not to seek a death sentence: "Is the accused eligible for the death penalty under Ohio law? Does he have the evidence to remove all doubt of innocence? Was the offense so terrible the defendant deserves to die?"[21] But other prosecutors might answer those questions differently, or they might use a different criteria altogether. Because of this, **whether or not a person is sent to death row depends heavily on the county prosecuting them rather than the severity of their crime alone.**

Prosecutors often defend the death penalty by arguing that they needit as a bargaining chip to encourage defendants to take some other plea deal. Indeed, with 3,319 capital indictments and only 140 people on death row, just a fraction of those indicted with death penalty specifications are ever sentenced to die. An Associated Press report found that up until 2002, over half of all Ohio's death penalty indictments ended in plea bargains. [22] More recently, a study conducted by Ohioans to Stop Executions found that of all completed cases between 2014 and 2017, 9 of 10 capital indictments ended in a punishment other than death (LWOP, LWP, another sentence). [23]

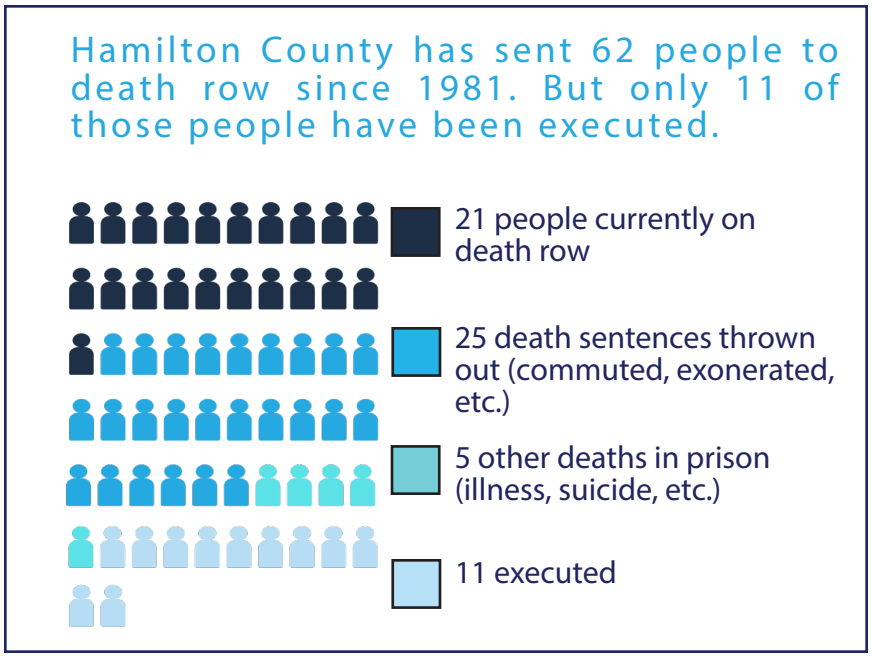
But there are important ethical costs to using the death penalty in such a way, as threatening death risks convicting the innocent. Furthermore, prosecutors in states without the death penalty generally report no issues securing LWOP sentences.

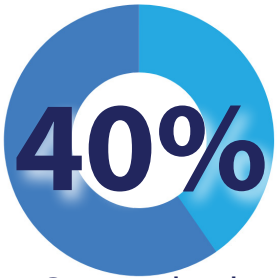
Geographic Disparities

Hamilton County

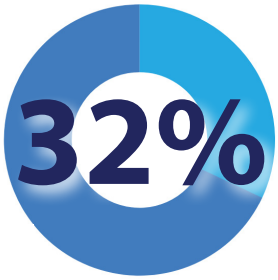
Hamilton County proescutor Joe Deters has said that he thinks using the death penalty as a bargaining chip is "unethical", which might help explain why Hamilton county has much fewer indictments than Franklin and Cuyahoga counties.[24]

Because of its comparatively lower capital indictment rate, more indictments in Hamilton County lead to death sentences than in other high-use counties, like Franklin and Cuyahoga. But that does not necessarily mean that Hamilton County's death sentences are more secure or justified. Of the 62 people sent to death row from Hamilton County since 1981, 25 of them were eventually removed (by commutation, judicial action, exoneration, etc.). This makes the county's capital conviction reversal rate 40%, the second highest in the state. Of the entire state's 340 total death sentences handed down from 1981-2019, 32% were eventually reversed.[25]





Hamilton County death sentences overturned



Ohio death sentences overturned[25]

Racial Disparities

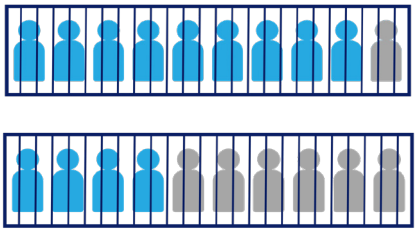
Nationally

Study after study from across the country has proven that the race of the victim is one of the most important predictors of whether a defendant will be sentenced to death.[26] While a given defendant's race can have both implicit and overt effects on that person's sentence, **capital defendants whose victims are white are far more likely to be penalized with death than those whose victims are Black.**

> *"I'm not saying judges or prosecutors or anybody is overtly racist—I don't think they are—but you see it happen... You see it in deals. You see it in negotiations. You see it in how things are reviewed."*
>
> - David Doughten, veteran Cleveland defense lawyer[27]

Most homicides in the U.S. are intraracial, meaning murderers and their victims are likely to be the same race.[28] So, if execution data is proportional to homicide data, we would expect that the executed and their victims are of the same race, and that there should be relatively few people executed for murdering one or more victims of the opposite race. But the data shows that **while most white people are indeed executed for killing white people, most Black people are not executed for killing Black people but for killing white white people.**

The Executed and their Victims (nationally, by race)



Around 90% of all executed white people had white victims, and few of them were put to death for interracial murders. But less than 40% of executed Black people had Black victims, despite the fact that 85% of all African American murderers have Black victims. What's more, despite both white and Black victims each accounting for around half of homicide victims, only 17% of the victims of the executed were black, while around 70% of the victims of those executed were white.

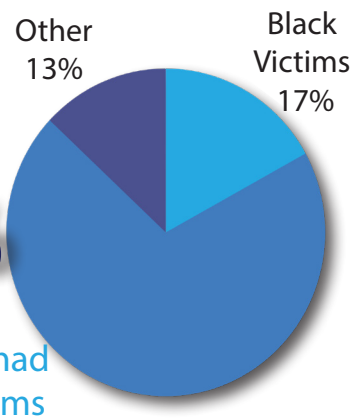
Too often, the murders of white people are perceived as particularly heinous and the "worst of the worst," while the murders of Black people are perceived as expected or run-of-the-mill. As Frank Baumgartner explains, **"the death penalty creates two categories of victims--those whose deaths demand the harshest punishment, and those whose deaths are 'garden variety.'** To a grieving mother or family member, it is hard to square the concept of a 'garden variety' homicide with the grief that we can expect to be associated with any tragedy."[29]

85% of Black murderers have Black victims

94% of white murderers have white victims

50% of all murder total murder victims are Black, the other 50% are white[30]

Victims of those Executed



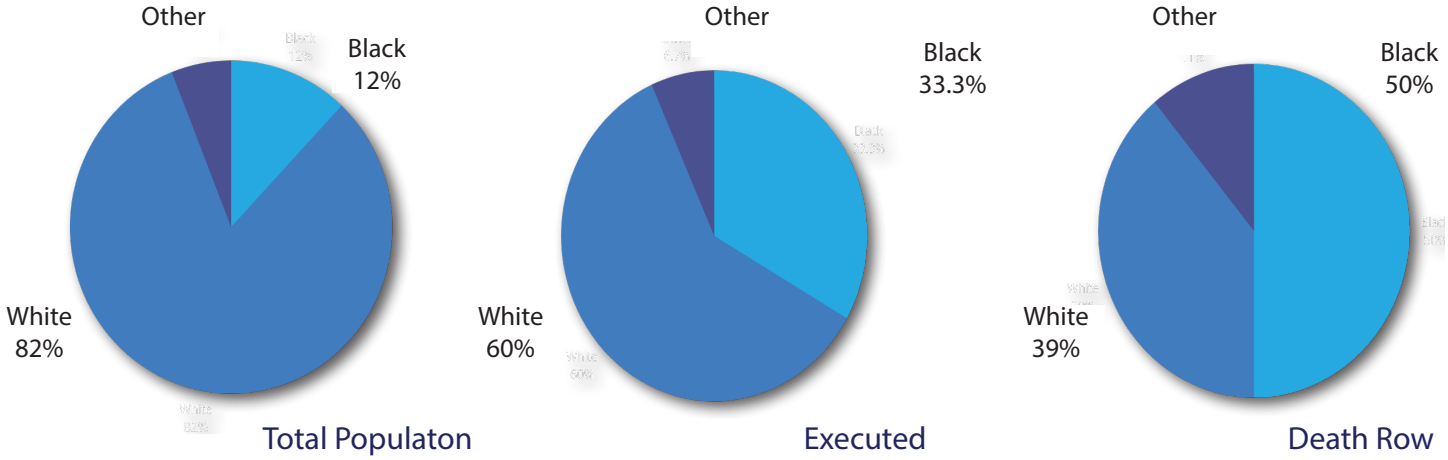
70% of those executed had white victims

Racial Disparities (cont.)

Ohio

> *[African Americans] are not only over-represented among the executed, but are also vastly under-represented among victims of those executed.*[31]

According to the most readily available census data, 82% of Ohio's population is white and only 12% is black.[32] Though they make up a fraction of the population, African-Americans make up over a third of those who have been executed and account for over half of all people currently on death row.[33] On the other hand, white people make up just over 60% of the executed and and only 39% of those on death row.



In addition to being disproportionate to the population, the racial breakdown among those executed and currently on death row is not commensurable, either. While only 8% of white people executed had at least one Black victim, 30% of Black people executed had at least one white victim. Only 50% of Black people were executed for killing other Black people while 92% of white people were executed for killing other white people. This data only becomes more stark when those currently on death row are included in the analysis:

53% of Black people on Ohio's death row are there for killing at least one white person, while only **5%** of white people are there for killing a Black person.

In Ohio, **it wasn't until 2011 that a white person was executed for murdering a Black person**; only two other white people have been executed for murders involving at least one Black victim.[34] Nationally, 308 Black defendants have been executed for murders involving at least one white victim since executions resumed in 1977. With only 34 white people executed having at least one Black victim, **9 times more Black people have been executed for killing at least one white person than white people for at least one Black person.**[35]

Across the country and in Ohio, it is clear that the criminal legal system places less value on the lives of black victims. Black on white crime is seen as "the worst of the worst." Black murderers are executed at rates higher than proportional to homicide data, and the killing of a black person is seen as less heinous than the murder of white counterparts.

Unequal Representation, Unequal Outcomes

"People who are well represented at trial do not get the death penalty.... I have yet to see a death case among the dozens coming to the Supreme Court on eve-of-execution stay applications in which the defendant was well represented at trial."

— Justice Ruth Bader Ginsburg, University of the District of Columbia, April 2001.

Across the country and in Ohio, the poor account almost exclusively for all of the executed. Without the means to secure their own legal counsel, indigent defendants are assigned attorneys who are often overworked, underpaid, and lack the specialized knowledge necessary to defend a capital case. Many capital defense attorneys are also woefully unprepared for trial. Some never speak with their clients beforehand, fail to conduct basic investigations, or conduct themselves in court inappropriately. Others present a weak case for an alternative life sentence by failing to present adequate mitigating factors (such as a serious mental illness, childhood trauma/abuse, etc.), calling few or no witnesses to testify, or failing to challenge forensic evidence.[36]

Incompetent lawyers are also harmful to their client because they seldom build a trusting relationship with them. This lack of trust and communication causes some defendants to turn down plea deals offered to them. **This directly counters the myth that those on death row are the worst of the worst: sometimes the only difference between those serving lengthy life sentences and those set for execution is whether they took a plea deal.**

And, as the ACLU notes, "the problem of inadequate counsel is not isolated to a few bad attorneys; it is a widespread and systematic failure to ensure access to justice for defendants facing capital charges and those convicted of capital crimes.[37]

Some of this failure can be attributed to the lack of competency standards for capital defense attorneys, an issue that was highlighted by the 2013 Joint Task Force to Review the Administration of Ohio's Death Penalty. [38]

Another major reason for poor representation is the lack of financial compensation for public defenders' work on capital cases, which is especially time consuming. Unlike non-capital cases, publicity (especially during the pre-trial phase) increases the pressure felt by the legal team, and the bifurcated capital trial leads to an increased and more complex workload.[39] Experts around the country report that **an average capital defense at the trial level, done reasonably well, requires between 400 and 1,500 hours of attorney time-- potentially double the time required of a non-capital case.[40]**

Despite the amount of time and energy that a capital case requires, defense counsel typically lacks the resources and financial compensation to satisfactorily represent their client. For much of Ohio's history, each county set a different hourly rate for capital attorney fees, contributing to the geographical disparities previously described. The Ohio State Bar Association's review of Ohio's death penalty in 1997 (when death penalty cases were peaking) found most counties paid under $25,000 for two attorneys at the capital trial level, ten counties paid $10,000 or less, and some paid as little as $25 an hour. As recently as 2014, some counties hourly rates were as low as $30, with a statewide average of $61.[41]

"The problem of inadequate counsel is not isolated to a few bad attorneys; it is a widespread and systematic failure to ensure access to justice for defendants facing capital charges and those convicted of capital crimes."

Unequal Representation, Unequal Outcomes (cont.)

In the fall of 2017, a uniform, hourly rate of $125 for capital attorneys became law. Additionally, that same year Ohio eliminated the ability to cap counsel fees, since such caps often forced counsel to essentially choose between working for free after reaching the cap or failing to provide their client adequate representation.

Though Ohio's current compensation structure is a significant improvement from the past, only 12 of the 140 people on death row have been sentenced under it. **This means that for the majority of people on death row-- nearly all of whom are indigent-- there is at least a reasonable possibility that their representation at trial was lacking in some way.**

In fact, by the time death sentences across the country had reached their highest point during the mid 90s, two-thirds of all death penalty convictions in the U.S. were overturned, many due to "serious errors by incompetent court-appointed defense attorneys with little experience in trying capital cases."[42] As recently as 2007, the Cincinnati Enquirer found that inadequate defense was the main reason most death sentences since 2000 were overturned.[43]

Having a competent, qualified lawyer can quite literally be the difference between life and death for someone convicted of a capital crime. The Equal Justice Institute explains, "the failure to provide adequate counsel to capital defendants and people sentenced to death is a defining feature of the American death penalty. Whether a defendant will be sentenced to death typically depends on the quality of his legal team more than any other factor."[44]

Notably, the problem of inadequate representation occurs throughout the criminal legal system. But this problem is especially insidious in terms of capital punishment, since an execution takes away the possibility of ever correcting errors or shortcomings made by the legal system.

> *"The failure to provide adequate counsel to capital defendants and people sentenced to death is a defining feature of the American death penalty. Whether a defendant will be sentenced to death typically depends on the quality of his legal team more than any other factor."*

The Risk of Executing the Innocent

There are too many instances where individuals have been executed or sentenced to death despite serious doubts about their guilt. Since 1972, 1,518 people in the U.S. have been executed and 170 have been exonerated.[45] That means **for every nine of those people executed nationwide, one person on death row has been exonerated.** Ohio sentenced nine of those exonerees to die, making **our exoneration rate even higher than the national average, with one exoneration for every six executions.**[46]

1 exoneration
for every
6 executions
in Ohio

Estimating just how many executed people were innocent is difficult, since the quest to prove innocence usually ends once a person is executed. But a 2014 report from Michigan Law School predicts that **at least 4.1% of those sentenced to death are innocent.**[47] In effect, the researchers conculed that the number of innocent people sentenced to die is actually double the number of those actually exonerated.

The Deterrence Myth

Since the *Furman v. Georgia* decision, studies have sought to understand the relationship between capital punishment and murder rates, and after decades of research, it is clear that the two have no relevant correlation.[48]

A recent University of Colorado-Boulder study surveyed leading criminologists on their convictions about whether there was a link between the death penalty and murder rates. **They found that 88% of criminologists do not believe the death penalty is a deterrent, and 91% believe that politicians support the death penalty to appear tough on crime.[49]**

In Ohio, a 2014 Ohioans to Stop Executions report shows no clear correlation between capital indictments and homicides across Ohio.[50] Refer to the "Geography" section of this publication to see how Ohio counties that frequently use the death penalty see no real reduction in their murder rates.

Compassion for Murder Victims' Families

Despite everything we know to be true about the death penalty's cost and its unjust application, prosecutors continuously tout it as a tool they need at their disposal in order to deliver justice to victims' family members.

But what some victims' families know even before the judicial proceedings begin, and what some later discover, is **executions often don't bring the satisfying "justice" prosecutors promise.** Death sentences often cause victims' family members to endure repeated trauma during the trial process, and after a person is sent to death row, the years of appeals rightfully afforded the defendant delays the healing process for many grieving families. Even after an execution, few family members report feeling a sense of closure.

Research bears out these claims. A 2007 University of Minnesota study found that **just 2.5% of murder victims' friends and families reported feeling closure as a result of capital punishment,** and 20.1% said the execution did not help them heal. Similarly, a 2012 Marquette Law Review study found that, "family members in homicide proceedings in which the death penalty was unavailable were physically, psychologically, and behaviorally more healthy and expressed greater satisfaction with the legal system than family members in death penalty cases " [51]

We certainly don't claim to represent the opinions and feelings of all murder victim families, but neither can prosecutors. If they argue that they need the death penalty to deliver justice, what would they say to the 90% of families whose loved ones' murder trials *don't* end in a death sentence?[52] What would they say to the families who explicitly asked that they not pursue the death penalty, but sought it out anyway?

When a loved one is murdered, many families must navigate a confusing legal system on their own while they are in the throes of grief. The Ohio Attorney General's office does offer some crime victim services, but most existing homicide survivor's services are provided through county prosecutors offices, and these are often not continued once criminal proceedings are complete. And, it's likely that there is a gap between the government provided services available to families and knowledge that they can access those services.

Compassion for Murder Victims' Families (cont.)

Much is left to be provided by non-traditional victim service providers, such as faith communities or other local nonprofit organizations. This means crime victims who don't live in a community with a strong network of resources (usually those in rural areas) often can't access the resources and support they need.

Not all victim's family members are eligible for services, either: those who have a preexisting felony (even one that is totally unrelated to the case) are not able to receive services from certain federally funded programs. And because in all but two of Ohio's 88 counties, victims' services are adjunct to the prosecutor's office, some victims have also reported that they didn't receive available services because they were either unwilling to assist the prosecutor's office or they disagreed with the prosecutor's approach in seeking a death sentence in their case. [53]

In 2014, the Joint Task Force on the Administration of Ohio's Death Penalty unanimously recommended the Ohio Legislature study how to best support victim's families. The Joint Legislative Study Committee on Victims' Rights was mandated by HB 663 in December, 2014, and while a few hearings were held, the committee never completed its task, even failing to accept the offer to a very affordable study by the Kirwan Institute on Race and Ethnic Studies at The Ohio State University.[54]

Instead of draining our state's resources on executions that might well never happen, Ohio should divert that money toward funding services for the families of murder victims. These services could include trained grief counselors, court-provided family advocates, or assistance to understand and apply for crime victim compensation. We should serve the families of murder victims with compassion, support, and resources that will help them heal rather than responding with more violence. Ohio murder victim's families deserve better.

Jeffrey Hill

"We don't really believe in the death penalty. I came up in a time when it was 'Live and let live.' Now it's 'Live and let die.' But I'm still on the old school. That's what I believe in. As you go from year to year, you start to appreciate life a little bit more. You don't wanna just see someone die because they made a mistake."

-Eddie Sanders Sr., Emma Hill's brother, about his family's petition for Jeff's clemency

In 1991, while under the severe influence of drugs, Jeffrey Hill tragically killed his mother, Emma Hill. The moment he realized the events of his mother's death, Jeff expressed and continues to express deep remorse. Jeff and Emma's family made it clear that they did not want the death penalty for Jeff, explaining "another death in our family will only add more suffering and grief to the burdens we have already borne." Despite their wishes, Hamilton County prosecutors pursued the death penalty and succeeded in sending Jeff to death row. Almost two decades later, after the family continued to advocate against Jeff's sentence, he was finally commuted to life in prison and eventually freed. Situations like this, where victims' families explicitly say that the death penalty is not part of their vision for justice or healing, suggest that prosecutors don't always pursue the death penalty just to bring victims' families justice.

Glossary

Aggravating factor: Those that increase the severity or culpability of a criminal act
Commutation: The reduction of a penalty to one less severe
Exoneration: Generally, clearing a person of a convicted crime based on new evidence of innocence
Clemency: An act of mercy or leniency exercised by the Governor after receipt of a recommendation from the Parole Board; can be in the form of a pardon, commutation, or reprieve
Indictment: Formal charge made by prosecutor's office
LWP: The sentence of life with the possibility of parole
LWOP: The sentence of life without the possibility of parole
Pardon: Relieves the person pardoned from some or all of the ramifications of lawful punishment; does not erase or seal a conviction; a pardon forgives guilt.
Mitigating factor: Evidence regarding either the crime or the defendant that might lead to a lesser sentence
Reprieve/Stay of execution: The temporary postponement of the execution of a sentence.
Overturn: Disagree with a prior court's opinion (for the purposes of this report, a sentence that is commuted, removed by judicial action or exonerated).

Notes on Methodology

The cost of the eight death penalty cases were found respectively through individualized research. In order to arrive at rough cost estimates, each cost was recorded and the year that it was acquired was noted. All costs were applied and inflation was taken into account to arrive at what the costs would be in 2019 U.S. dollars. Due to the lengthy nature of the capital punishment cases, related court costs went back as far as 1985. Once each of the individual costs were identified, they were added together in the appropriate categories and then once again added to determine a rough total cost estimate for the costs of each case.

Counsel fees were identified by making records requests for all files existing on each case, and then each case was examined in order to find the related counsel fees. Interviews with Jack Herbert, financial director from the Hamilton County Public Defender, also provided a base for the expected costs of defense fees. Case file costs with cost descriptions were available online through the Hamilton County Clerk of Courts. Case cost fees were also found when looking for the related court cost fees, which were identified through public records requests, reviewing all files associated with the cases, and recording the appropriate corresponding costs. Housing costs were extracted by analyzing the appropriate data and benchmarking research done on death row housing costs.

This report highlighted similar cost categories compared to those used by the noted Dayton Daily News study. The highest categorical cost identified in that study was the cost of housing death row inmates at $8.3 million dollars, and this report found housing to also be the most expensive category. The cost of legal compensation for defense counsel was also high, as indicated in the Dayton Daily News study. However, this report was able to identify the exact legal compensation for each case, finding further support to the broad numbers presented from previous data.

It is almost certain these reported costs are conservative. Costs were found by sorting through all the available case file boxes for each case. For each case, there were between five and ten boxes of files, with close to 2,500 pages in each. To research the costs alone, roughly fifty hours were spent simply sorting through the files and finding each cost by hand. Due to this, not all files for the case may have been analyzed as deeply or intently as needed to arrive at the most accurate numbers. There is also limited access to needed relevant court records that contained other associated costs. Likewise, due to the complex nature of death penalty cases, it is not always clear which costs are associated with what piece of the trial, and the systemic lack of adequate record keeping stifled our ability to find all appropriate costs.

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6 Laura A. Bischoff and Josh Sweigart, "Execution costs rising," Dayton Daily News, Cox Enterprises, Inc., (Feb. 22, 2014)

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13 Hope Lane, "How the criminalization of mental illness and substance use disorders impacts African-Americans in Ohio," The Center for Community Solutions, (February 2020) https://www.communitysolutions.com/criminalization-mental-illness-sud-impacts-african-americans-ohio/

14 "Advocacy Day 2020 Fact Sheet," National Association of Social Workers, Ohio Chapter (accessed July 2020) https://www.naswoh.org/page/advocacyday2

15The Ohio Attorney General, "2019 Annual Capital Crimes Report," (accessed May 2020) https://www.ohioattorneygeneral.gov/Files/Reports/Capital-Crimes-Annual-Reports/2019-Capital-Crimes-Annual-Report

16 Data calculated using "Former Death Row Residents Under 1981 Law" and "Death Row Residents Executed under 1981 Law", Office of the Ohio Public Defender,(accessed May 2020) https://opd.ohio.gov/Portals/0/PDF/DP/August2019/Former%20Death%20Row%20Residents%20Under%201981%20Law.pdf and https://opd.ohio.gov/Portals/0/PDF/DP/Mar2019/Executed-Under-Law-1981.pdf, respectively. Contact IJPC for data compilation.

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24 "Arbitrariness: Widely disparate use of the death penalty in Ohio raises concerns," Associated Press summarized in Death Penalty Information Center, (May 22, 2012)https://deathpenaltyinfo.org/news/arbitrariness-widely-disparate-use-of-the-death-penalty-in-ohio-raises-concerns

25 This includes commutations, ineligible because of intellectual disability, or vacated by judicial action. See The Ohio Attorney General, "2019 Annual Capital Crimes Report," (accessed May 2020) https://www.ohioattorneygeneral.gov/Files/Reports/Capital-Crimes-Annual-Reports/2019-Capital-Crimes-Annual-Report

26 Baumgartner notes in his own scholarship that,"the race of the victim has an impact on the likelihood of a death sentence is hardly new. It is one of the most consistent findings in all empirical legal scholarship relating to capital punishment." (pg. 2) See Frank R. Baumgartner, Amanda J. Grigg & Alisa Mastro, "#BlackLivesDon'tMatter: race-of-victim effects in US executions, 1976–2013," Politics, Groups, and Identities, (April 2015) http://dx.doi.org/10.1080/21565503.2015.1024262

27 See note 21, pg. 80

Endnotes

28 84% of white victims were killed by white people, 93% of Black victims were killed by Black people.(1980-2008, when trend data is most recently available). See "Homicide Trends in the United States, 1980-2008," Bureau of Justice Statistics, (November 2011) https://www.bjs.gov/content/pub/pdf/htus8008.pdf.

29 Frank R. Baumgartner; Emma Johnson; Colin Wilson; Clarke Whitehead, "These Lives Matter, Those Ones Don't: Comparing Execution Rates by the Race and Gender of the Victim in the U.S. and in the Top Death Penalty States," Albany Law Review 79, no. 3, (2015)

30 See note 26, pg. 6-7.

31 See note 26, pg. 7.

32 "Ohio: 2010 Census of Population and Housing," US Census Bureau (October 2012) https://www.census.gov/prod/cen2010/cph-1-37.pdf

33 33% of those who have been executed and 56% of those who are currently on death row are Black. See data calculated using "Death Penalty Proportionality Statistics," Office of the Ohio Public Defender (March 2020) https://opd.ohio.gov/Portals/0/PDF/DP/March2020/Proportionality_Statistics.pdf. Contact IJPC for data compilation.

34 Frank Spisak, Jr. was executed on 2/17/11; two victims were Black, one was white. Frederick Treesh was executed on 3/16/13. He is the only white person executed with a single Black victim. Harry Mitts, Jr. was executed 9/25/13; one victim was Black and one was white. See "Former Death Row Residents Under 1981 Law," note 16.

35 "DPIC Analysis: Racial Disparities Persisted in US Death Sentences and Executions in 2019," Death Penalty Information Center (Jan. 21, 2020) https://deathpenaltyinfo.org/news/dpic-analysis-racial-disparities-persisted-in-the-u-s-death-sentences-and-executions-in-2019

36 R. Rosie Gorn, "Adequate Representation: The Difference Between Life and Death," American Criminal Law Review, Vol. 55:463 (2018) https://www.law.georgetown.edu/american-criminal-law-review/wp-content/uploads/sites/15/2018/04/55-2-Adequate-Representation-The-Difference-Between-Life-and-Death.pdf

37 "Slamming the Courthouse Doors," American Civil Liberties Union (December 2010) https://www.aclu.org/files/assets/HRP_UPRsubmission_annex.pdf#page=7

38 Adele Shank, "The Death Penalty in Ohio: Fairness, Reliabili

39 Adele Shank, "The Death Penalty in Ohio: Fairness, Reliability, and Justice at Risk," Ohio State Law Journal: Volume 63, Issue 1 (2002), pg. 376 https://kb.osu.edu/handle/1811/70490

40 See note 39. See also Terance Miethe, "Estimates of Time Spent in Capital and Non-Capital Murder Cases: A Statistical Analysis of Survey Data from Clark County Defense Attorneys," (Feb. 21, 2020) https://files.deathpenaltyinfo.org/legacy/documents/ClarkNVCostReport.pdf

41 This might not seem particularly low, but keep in mind that private attorneys appointed to capital cases often have private practices; rent, salaries, office expenses, etc. all come out of that hourly wage. Additionally, there is a significant opportunity cost for private attorneys with other work that would pay significantly more.

42 See note 36.

43 Summarized in, "Inadequate Defense Underscored in Ohio Study," Death Penalty Information Center, (April 17, 2007) https://deathpenaltyinfo.org/news/inadequate-capital-defense-underscored-in-ohio-study

44 "Death Penalty: Inadequate Counsel," Equal Justice Initiative, (Accessed July 2020) https://eji.org/issues/death-penalty/

45 "Execution Database," Death Penalty Information Center, (accessed July 5, 2020) https://deathpenaltyinfo.org/executions/execution-database

46 "Innocence Database," Death Penalty Information Center, (accessed July 5, 2020) https://deathpenaltyinfo.org/policy-issues/innocence-database?filters%5Bstate%5D=Ohio

47Samuel R. Grossa, Barbara O'Brien, Chen Hu, and Edward H. Kennedy, "Rate of false conviction of criminal defendants who are sentenced to death," Proceedings of the National Academy of Sciences, (April 2014) https://www.pnas.org/content/pnas/111/20/7230.full.pdf

48 "Furman v. Georgia, 408 US 238 – Supreme Court 1972" United States Supreme Court, (June 1972) scholar.google.com/scholar_

49 Michael L. Radelet and Traci L. Lacock, "Do executions lower homicide rates?: The views of leading criminologists," 99 Journal of Criminal Law & Criminology 489, Northwestern University (2009)

50 See note 19.

51 "Victim's Families," Death Penalty Information Center, (accessed June 1, 2020) https://deathpenaltyinfo.org/facts-and-research/new-voices/victims-families

52 A relatively small number of murders are death-eligible; of those indicted for capital murder, only 10% are sentenced to death; even fewer of those are actually executed. See note 11.

53 Abraham Bonowitz, personal interview, June 2020.

54 OTSE Staff, "Homicide Victims Ignored in Study of Victim's Needs," Ohioans to Stop Executions, (April 13, 2016) http://otse.org/homicide-survivors-ignored-study-victims-needs/

55 See note 6.