

Some defend the death penalty as necessary for securing confessions and plea deals. But the evidence fails to back up this point. States without the death penalty succeed in obtaining severe sentences in murder cases, even without using an execution as a bargaining chip. Furthermore, some prosecutors question the ethics of threatening defendants with the death penalty to get pleas, especially since doing so can lead to wrongful convictions.

States don't need the threat of death to get life

- ◆ During the ten years New York had a death penalty, prosecutors secured plea bargains at a *lower* rate in first-degree murder cases than in second-degree murder cases. If the death penalty played a key role in securing pleas, the opposite would be true, since death penalty isn't an option for second degree murder cases.
- ◆ Prosecutors in New Jersey say that repeal of the death penalty there in 2007 has made no difference in their ability to secure guilty pleas.
- ◆ In Alaska, plea bargaining was abolished completely in 1975. A study by the National Institute of Justice found that after the end of plea bargaining, "guilty pleas continued to flow in at nearly undiminished rates. Most defendants pled guilty even when the state offered them nothing in exchange for their cooperation."
- ◆ There is no evidence that the death penalty saves money by forcing plea deals and avoiding trials. In Kansas, defense and district court costs for capital cases ending in a plea deal are still higher than those that went to trial. A study of plea bargains in Georgia's death penalty system arrived at similar findings.

"Eliminating the death penalty...will not hinder the prosecutorial capacity to seek, or the court's ability to impose, 'life without parole' sentences for serious, heinous crimes and criminals."

*– Scott Harshbarger,
former District Attorney
and former Attorney
General of Massachusetts,
which has no death penalty*

Death as a threat risks convicting the innocent

- ◆ Many people exonerated from life sentences were originally threatened with the death penalty and chose to accept a guilty plea in order to avoid an execution. These individuals are the walking evidence that plea bargaining with the death penalty is not only unethical, it is downright dangerous.
- ◆ According to the Innocence Project, more than 25% of DNA exonerations are the result of a false confession or incriminating statements by innocent defendants.

- ♦ It may be hard to imagine that an innocent person would confess to crimes they did not commit. But false confessions occur more often than we realize, especially when a suspect is under duress, has a mental impairment, or is fearful of a harsh punishment like death.

CASE IN POINT

Trying to solve a 1985 rape and murder in Beatrice, Nebraska, investigators threatened several suspects with the death penalty and obtained what turned out to be false confessions. Biological evidence at the crime scene - tested at the time of original investigation - did not match the "**Beatrice 6**" and should have convinced investigators of their innocence. But relying on false confessions to build a case, prosecutors successfully obtained convictions against the Beatrice 6, who spent over 75 years behind bars until DNA eventually exonerated them.

CASE IN POINT

Chris Ochoa was sentenced to life for the 1988 rape and murder of Nancy DePriest in Austin, Texas. He was threatened with the death penalty. On the advice of his attorney, he pled guilty to the murder and fingered his friend, Richard Danziger, for the rape. In 2001, DNA testing revealed that both Ochoa and Danziger were innocent. They were exonerated and released from prison, but Danziger never really got his life back - he was severely beaten in prison and remains brain damaged to this day, in the care of his sister.

CASE IN POINT

In 1991, the state of Maryland threatened **Anthony Gray** with the death penalty for a murder in Calvert County. He confessed to the crime to avoid execution and was sentenced to life, even though neither DNA nor fingerprints matched him or his co-defendants. Gray spent eight years in prison - including a year and a half after the person actually responsible for the murder had been found and convicted - before he was exonerated and freed.

"We have not viewed [repeal of the death penalty] as an impediment in the disposition of murder cases...As a practical matter, we have really seen no difference in the way we conduct our business in prosecuting murder cases."

*- Edward Defazio,
Prosecutor, Hudson
County, New Jersey,
noting that prosecuting
cases and securing guilty
pleas was not any more
difficult since New Jersey
repealed the death penalty*

Life and death are too important to be used as a bargaining chip. The death penalty's many flaws don't go away when the aim is securing a life sentence. Indeed, the risks only increase when innocent people are coerced to confess in order to spare their own lives.

Sources available ejusa.org