

How Have Homicide Rates Been Affected By California's Death Penalty?

by

Michael J. Godfrey and Vincent Schiraldi

"It is the deed that teaches, not the name we give it. Murder and capital punishment are not opposites that cancel one another, but similars that breed their kind."

-George Bernard Shaw

"...we are the only Western democracy that still has capital punishment. In my view it should be abolished. Let me add just this: It does not deter murders. It serves no purpose."

-Retired U.S. Supreme Court Justice Lewis R. Powell, Jr.

INTRODUCTION

In more than three centuries since Daniel Frank became the first person to be lawfully executed in the New World for the crime of theft, there have been an estimated 18,000 to 20,000 persons put to death. In California, the numbers of those executed are staggering. Since 1893, there have been a total of 504 executions in the state of California. In total executions since 1930, California is ranked fourth behind Georgia (383), Texas (368) and New York (329) at 294.

April 21, 1995 marks the three year anniversary of Robert Alton Harris' execution. This was the first execution in California since Aaron Mitchell was put to death by lethal gas in 1967. At the age of 39, Harris ushered back California's era of capital punishment.

Since 1977, when capital punishment was reinstated, California has sentenced 363 prisoners to die on death row, and in addition to Harris, has executed one other, David Mason. With the reinstatement of capital punishment in California, one of the arguments most frequently used to justify the death penalty is deterrence: that it is necessary to kill an offender to dissuade other people from committing the same

kind of crime.

The "common sense" logic of this argument rests on questionable assumptions. If the death penalty did deter potential offenders more effectively than other punishments, then jurisdictions with the death penalty would have a lower rate of crime than those without. Similarly, a rise in the rate of crimes punishable by death would be expected in jurisdictions which abolish executions and a decline in crime rates would be expected among those which introduce it. Finally, one would expect a drop in homicide rates immediately following executions, particularly highly publicized ones. Yet, study after study has failed to establish any such link between the death penalty and homicide rates.

Conversely, an increase in homicides is not uncommon after a publicized execution and is generally referred to by scholars as a "brutalization effect." Some research has suggested that executions may temporarily result in more homicides. William J. Bowers and Glenn L. Pierce analyzed monthly homicide rates from 1907 to 1963 in New York State (which carried out more execu-

tions than any other state during this period). They found that there had been, on average, two additional homicides in the month after an execution. They suggested that this momentary rise in homicides might be due to a "brutalizing" effect of executions, similar to the effect of other violent events such as publicized suicides, mass murders and assassinations. Similar findings have been made by other studies.

One of the landmark studies with respect to deterrence and the death penalty was conducted by Thorsten Sellin in 1959. A nationally renowned sociologist at the University of Pennsylvania, Sellin discovered through a comparison of abolitionist and retentionist states, that homicide rates in abolitionist states were not significantly different than the rates in retentionist states. From this evidence he drew the "inevitable conclusion...that executions have no discernible effect on homicide death rates." These conclusions were a basic theme in the argument presented to the United States Supreme Court in 1971 to support a finding by the Court that the death penalty was a "cruel and unusual punishment".

In a comparison of retentionist and abolitionist countries, homicide rates have been found to be greater in countries that use the death penalty than those which do not. In an analysis of selected countries, the

The United Kingdom Royal Commission on Capital Punishment (1949-1953) examined the available statistics on jurisdictions which had abolished or ceased using the death penalty for murder. From its survey of seven European countries, New Zealand and individual states within Australia and the United States, the Commission concluded that "there is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate, or that its reintroduction has led to a fall."

METHODOLOGY

In this study, homicide rates were analyzed in 1992 and 1993 on a month-by-month basis. Rates for the four month period preceding and following the executions of both Robert Alton Harris and David Mason were examined to discern evidence of a deterrent effect.

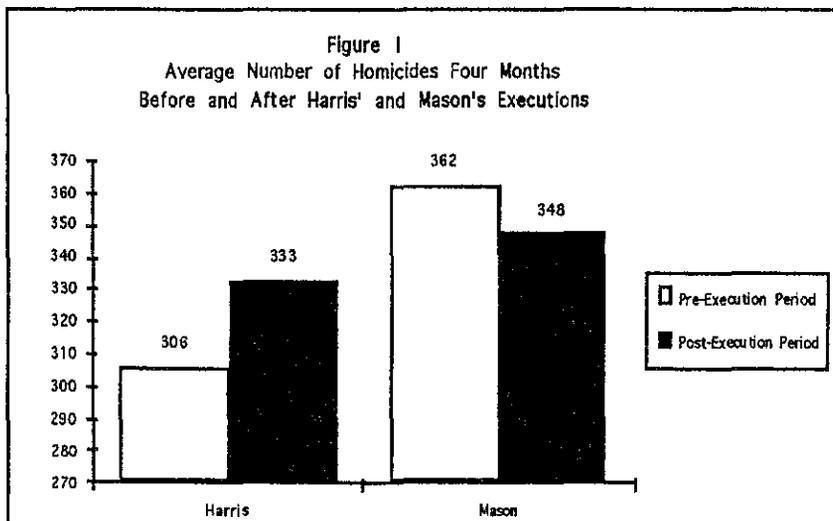
Additionally, the annual increase in the murder rates was compared during a period of fifteen years in which California carried out the death penalty, and the twenty-four years in which it did not.

EXECUTIONS AND CALIFORNIA'S HOMICIDE RATE

In the four months of 1992 preceding Harris' execution, the average number of monthly homicides was 306. In the four months following the execution, the average number of homicides per month was 333. This suggests the presence of a "brutalization effect" noted in previous studies.

In 1993, the year of David Mason's execution, homicides jumped from 12.5 per 100,000 persons in 1992 to 12.9 per 100,000 in 1993. In the four month period preceding Mason's death, there was an average of 362 homicides per month, compared to an average of 348 in the four months following his death (see FIGURE I).

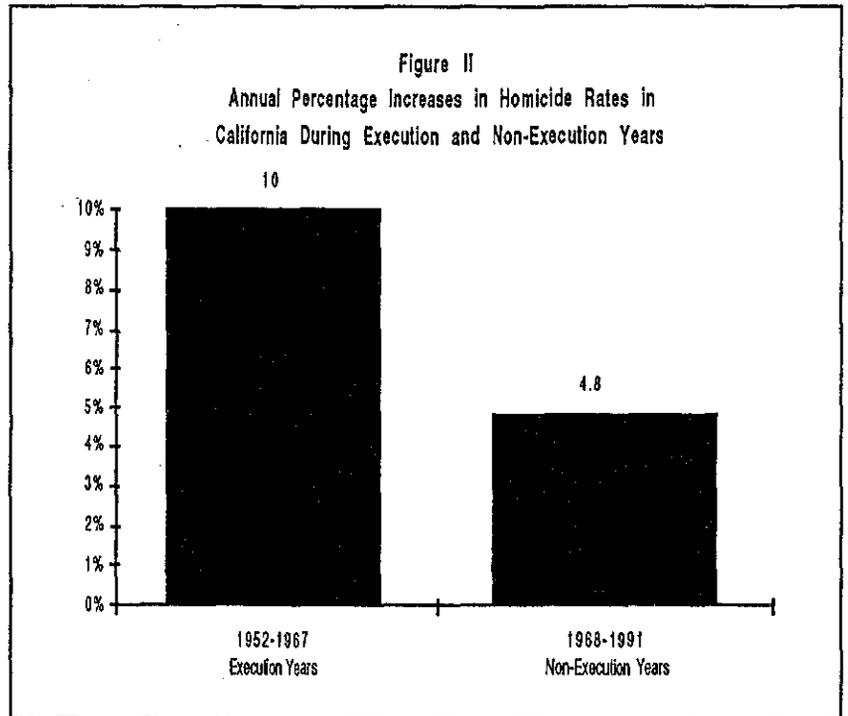
A similar pattern is revealed when comparing the murder rates in California during its abolitionist and retentionist years. In a simple comparison during the retentionist period from 1952 to 1967, when executions occurred on average about every two months,



Sources: California Department of Justice, Division of Law Enforcement Information Center, *Crime and Delinquency in California*, 1993 p.108

five abolitionist countries with the highest homicide rate averaged a rate of 11.6 per 100,000 persons. The five retentionist states with the highest homicide rate averaged a rate of 41.6 per 100,000 persons. In other words, countries that have capital punishment appear to have higher murder rates than those countries that do not have capital punishment.

tions occurred on average about every two months, homicide rates increased from 2.4 per 100,000 in 1952 to 6.0 per 100,000 in 1967. Within this fifteen year period, the homicide rate increased by 150% - an annual increase of 10%. Conversely, between the abolitionist period of 1967 and 1991, when no executions took place, the homicide rate increased from 6.0 per 100,000 to 12.6 per 100,000. Over this twenty-four year span, the homicide rate increased by 110% or 4.8% annually. In other words, the average annual increase in homicides was twice as high during years in which the death penalty was being carried out than in years during which no one was executed (see FIGURE II).



Sources: California Department of Justice, Division of Law Enforcement Information Center, *Crime and Delinquency in California*, 1993 p.108

CONCLUSION

Numerous previous studies indicate that there is no clear evidence that the death penalty deters. This study has shown that homicide rates are at best unaffected by capital punishment in California. An increase in homicides during times of both abolition and retention was found, with the retentionist increase more than double the abolitionist increase. This is consistent with the general increase in homicide rates that occurred after Harris' execution. In fact, immediately following Harris' execution, a "brutalizing effect" was evidenced which may be in response to the violent nature of executions.

In sum, the evidence suggests that there is no reduction in homicides due to the death penalty, and that the death penalty may, in fact, "lead by example." For proponents of the issue, this is unfortunate news. The deterrence argument is for many, the primary argument for the use of death penalty. In review of this study, it is apparent that no such deterrent effect exists.

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