

Baumgartner, POLI 195 Spring 2013

Cost Studies

Reading: Cook

March 18, 2013

Announcements, etc

- Speaker on Wed: Christine Mumma and Greg Taylor
- See class web site for Chris' latest client, who may be freed soon after 34 years in prison
- Police did have reasons to suspect him, but he never fit the profile
- Jailhouse snitch testimony was compelling
- No physical evidence
- Desire to close the case

More announcements, etc.

- Maryland's repeal
- Kirk Bloodsworth is from MD, 100th DNA exoneree, former US Marine
- Partisan breakdown in General Assembly vote

	Abolish	Retain
Dem	80	18
Rep	2	38

From Innocence to Cost

- Cost is now one of the biggest arguments
- Innocence: one response is to make sure the accused has sufficient resources
 - More lawyers
 - More access to prosecutor's evidence, in a timely and complete manner (“Brady violations”)
 - More experts, to contest state's experts

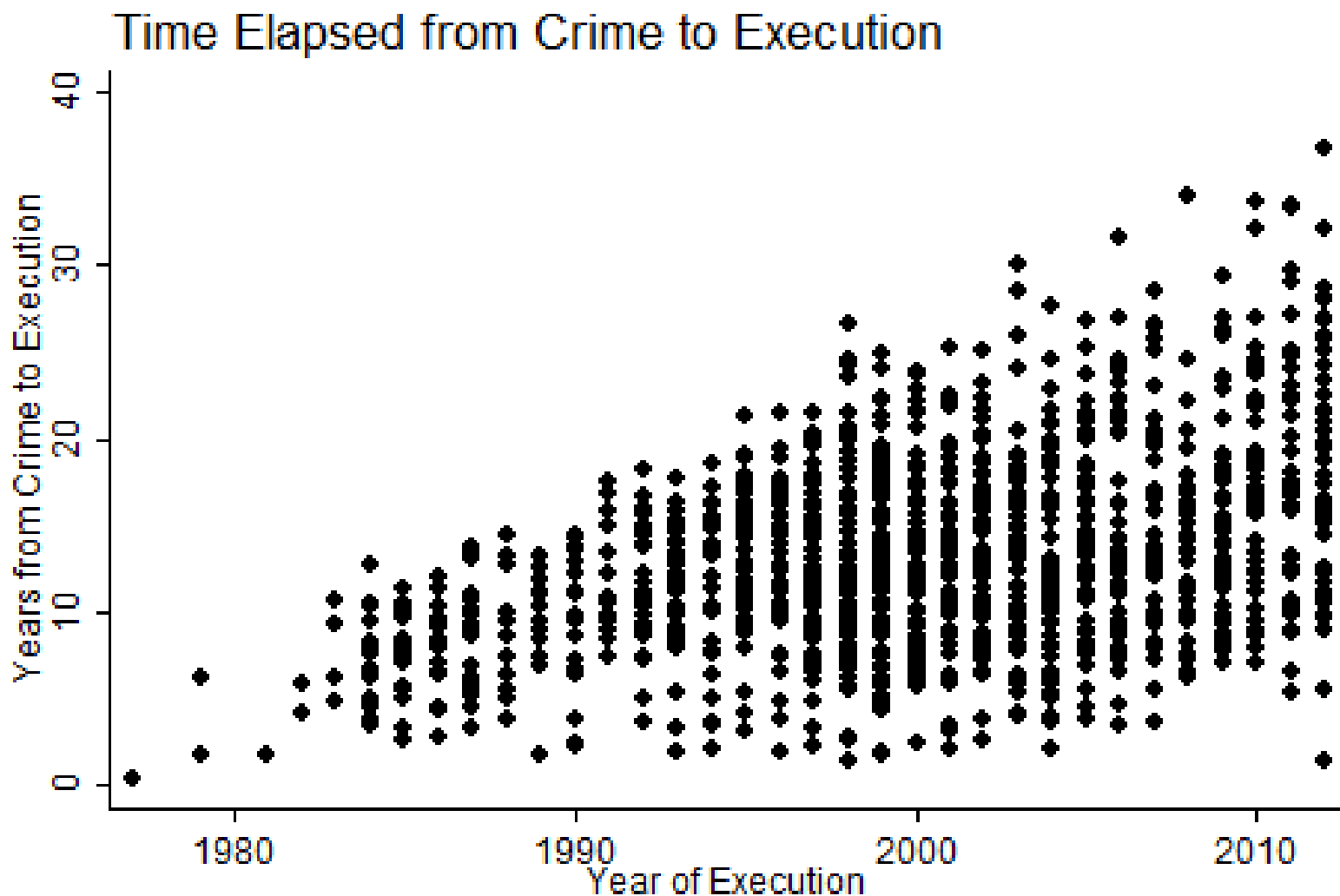
Innocence > Cost

- All those efforts to “perfect the mechanism” of death cost a lot of money
- Increased costs at all levels, and reduced “efficiency” (e.g., proportion of accused eventually executed)
- Cost per execution becomes huge
- Solution: execute more people faster. Many call for this, but it is unlikely. So it is a rock and a hard place situation for proponents.

Cost and “efficiency”

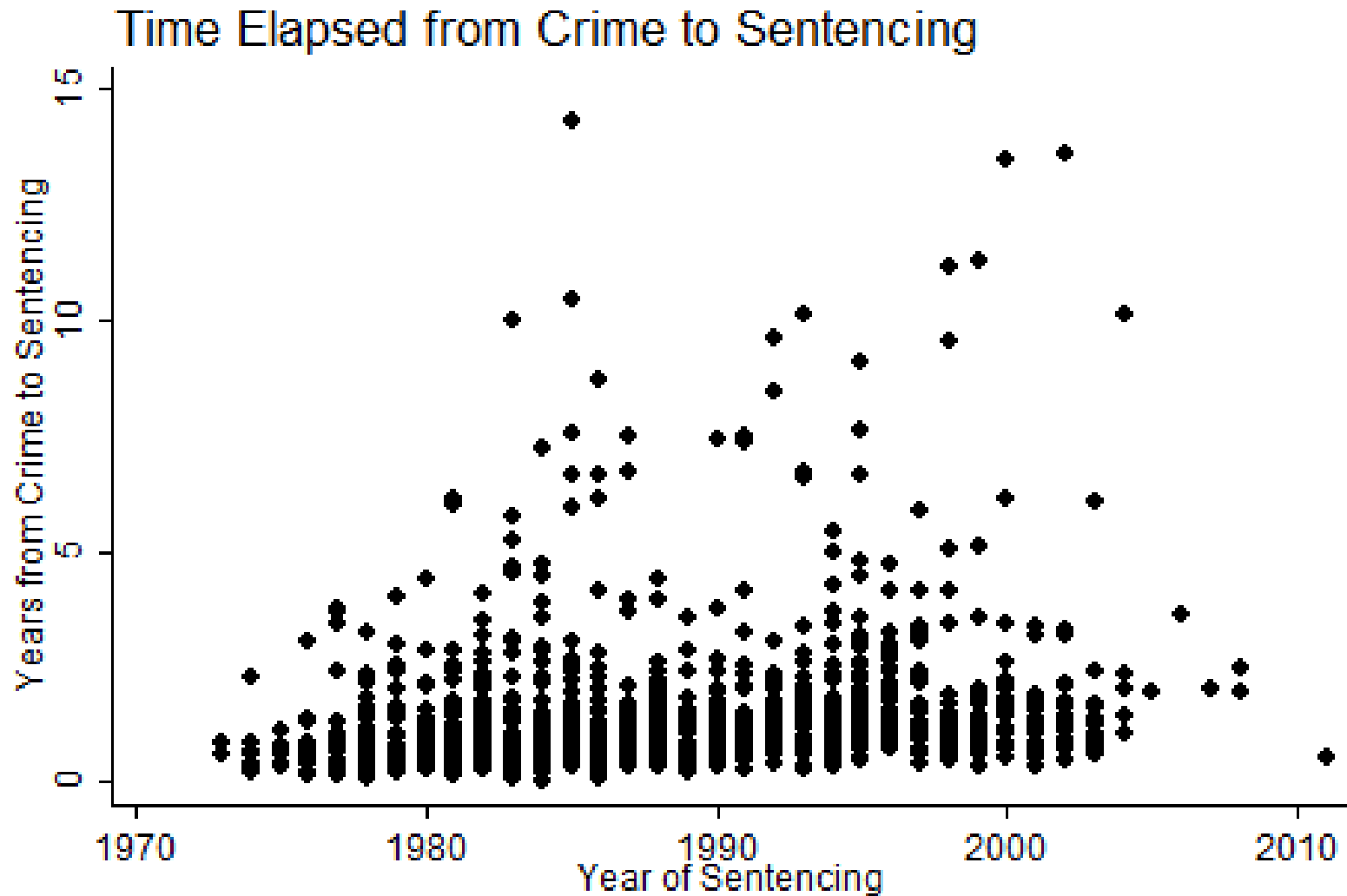
- Trials cost more
 - Defense witnesses, experts, attorneys
 - of course the state also ratchets up their side
 - Trials last longer
- State wins fewer cases
- Appeals go on longer

Delays from Crime to Execution

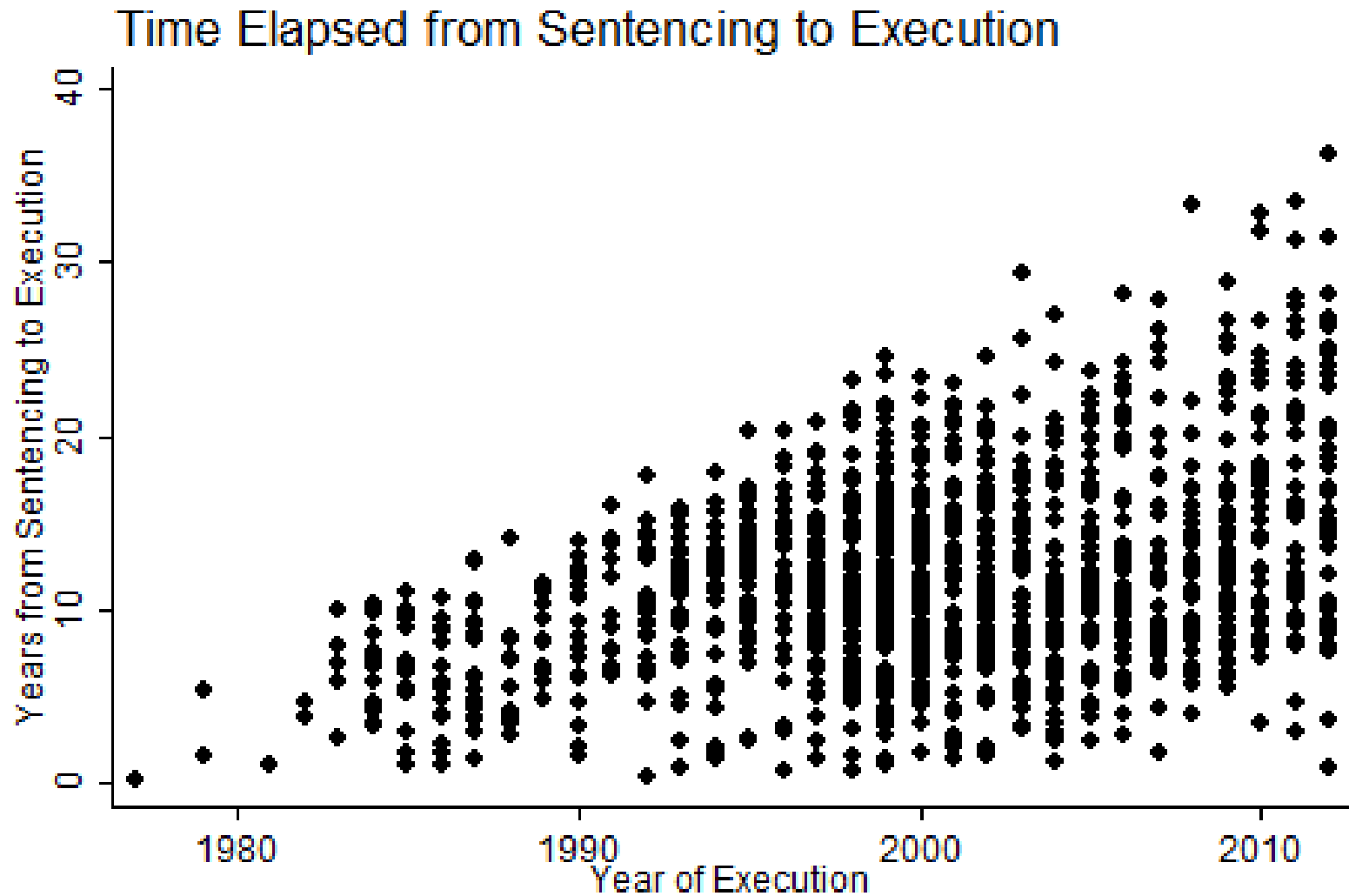


Each year adds 115 additional days of delay.

It's not because the trials are so long



Rather, the Appeals take longer



Each year adds 107 Days to Time from Sentence to Execution

How to estimate costs?

- Problem: Most cases don't cost a huge amount.
- But a few cost millions.
- Effect of this:
 - Small counties sometimes use entire budgets, or face terrible challenges. Judges have occasionally barred the use of capital punishment for this reason.
 - Goelzhauser study: larger DA budgets > more use of death penalty in that district, controlling for other factors.
 - Hard to estimate the “average” cost, as they vary so widely.
- Cook's solution: what is the cost of the entire system, not any individual case?

Costs of the death penalty system

- If death were not an option:
- No capital prosecutions at all
- So, no provisions that are peculiar to capital prosecutions would come into effect
 - Indigent defense services, access to more attorneys, more experts, more defense resources
 - Automatic appeals to state and federal courts
- Also, fewer plea-bargains for LWOP

Cook's study

- \$11 million per year, in 2005 and 2006 dollars
- OK, how did he do this?
- Table 1: decline in use of DP, and various reforms. You already know this but it is a good review.

Accounting mechanisms

- He ignores cost to the federal government (so under-estimates the savings)
- Other court costs also not taken into account: time freed up for courts to deal with other cases. He assumes these would simply be used for other cases, so assumes no savings (so another under-estimate)

Assumptions

- No effect on murder rate (current use is so low that deterrent effect is unlikely; this is perhaps the most contentious element of the analysis)
- All extra costs removed
- Cases proceed as “serious murder” charges instead: how prosecutors in fact handled the next most serious cases, after the death cases
- Increased prison costs, more LWOP prisoners

See Flow Chart 3

- 1,034 Murder arraignments
 - 274 Capital; rest not
 - 58 of these go to trial, rest are dismissed or plead
 - 9 lead to death sentences (plus 2 that were plead)
 - 174 found guilty of 1st degree murder; rest were innocent or had lesser charges.
 - 381 cases, most common outcome, 2nd degree murder
 - 276 dismissed or jury found not guilty

Defense Trial costs

- IDS defense costs
 - \$116,400 each for the 32 capital trial cases
 - \$8,300 each for 651 cases w/o trials
 - Total expenses, over two years, \$13 million

DA costs

- Opportunity costs, in-kind costs in the DA's office.
 - These not precisely estimated, so not included in the overall cost estimate
 - Days in court: 3 more days (twice as long) for capital v. Non-capital cases
 - So these items are there, but are not represented in the estimates

Defense appeals costs

- \$4.3 million
- Also, new trials are created based on successful appeals (recall that 65 percent of trials are overturned, leading to new trials)
- \$8 million, including re-sentencing procedures

Prison savings

- After 10 years in max, move death row inmates to medium security: 200k savings
- 11 actual executions: 206k cost for prison
- 11 actual executions: 180k savings for the execution itself
- Total savings, per year: 170k

Summing up

- Defense costs, trial phase: \$13.1M
- Payments to jurors: \$225K
- Appeals costs: \$7.5M
- Resentencing: \$594K
- Prison savings: \$170K

- Total savings, over 2 years: \$21.6M

Other estimates of costs

- New Jersey, on abolition, had executed just one person from 1976 to 2006, when they abolished.
- New York, similar
- Calif: 700 people on death row, but only 13 executions
- Etc.
- Obvious response: execute more.

Innocence, Cost, and Abolition

- One argument leads to the next
- Note how frustrating to death penalty supporters
- No effort to attack the moral principles of it.

- A conservative attack on the death penalty here:
- <http://conservativesconcerned.org/>

- What a reversal, but also, what a movement away from morality.