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## Copycat justice has turned US counties into execution hotspots



The odds of getting a death sentence aren't the same in all areas that have the death penalty  
Andrew Lichtenstein/Polaris/eyevine

By Jessica Hamzelou

A handful of hotspots carry out a disproportionate number of executions in the US, but these areas don't tend to have particularly high rates of murder. Instead, human bias seems to have led a small number of counties to become far more likely than others to follow through on a death sentence.

The death penalty is legal in 31 of the 50 US states, where it is given to some people convicted of murder. Now an analysis of the 38 years since 1977 has identified particular counties in the US that account for most of the country's executions. During that time, 1422 people were executed, and more than a third of these deaths – 513 – happened in Texas.

But even within Texas, there is strong variation. Harris County, home to Houston, carried out the most executions during the study period – 125. But neighbouring county Montgomery delivered only 13 during this time.

“We looked at whether execution rates were linked to higher rates of homicide per population,” says Frank Baumgartner at the University of North Carolina. “But that wasn't the case at all.”

### Geographically arbitrary

Instead of reflecting crime rates, the team found that an execution was more likely to take place in a county if another execution had previously been carried out there.

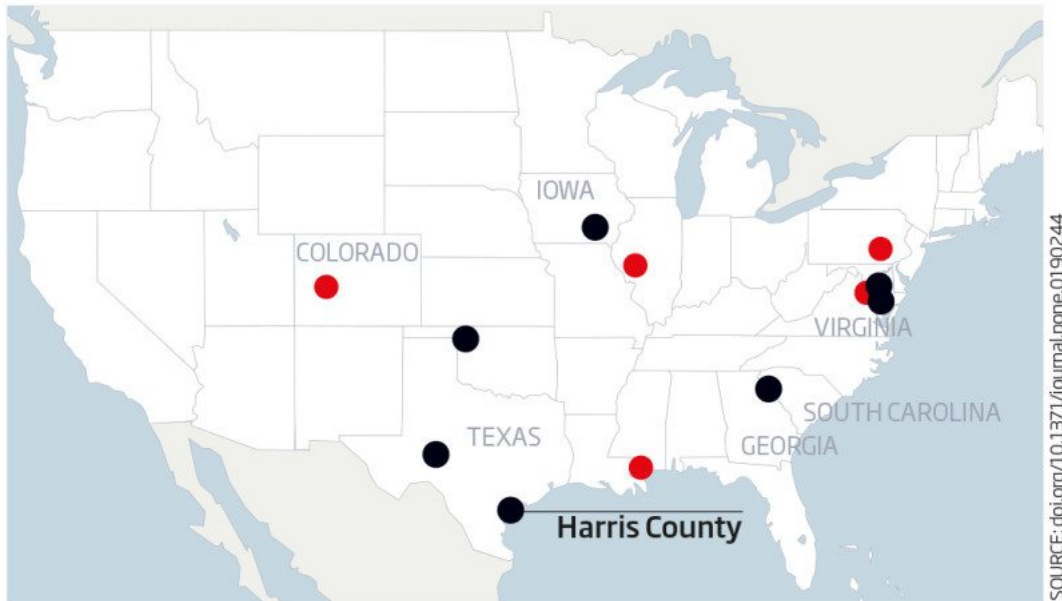
This effect is known as an information cascade, says Baumgartner. People will often make decisions based on what others have done before them, rather than the information in front of them. This is a kind of cognitive shortcut that makes it easier for people to make what they deem to be correct decisions. But it leads to a situation in which people and events are not assessed independently, and as they should be by prosecutors, judges and jurors.

# Execution hotspots

Several counties in Texas and elsewhere in the US have carried out a lot of executions despite not having a similarly high murder rate

● 30 or more murders per 100,000 people, 1977-2014

● 30 or more executions per 100,000 people, 1977-2014



Jury members and jurors are likely to compare their decisions to others that have been made within the same county, rather than focusing on the individual case,” says Michael Radelet at the University of Colorado Boulder.

This run-away effect has led to many counties that no longer perform executions, while some others continue to do so at a high rate. “We see hardly any counties that stop sentencing [people to death] and then start again,” says Brandon Garrett at the University of Virginia.

“The idea is that executions are only for the most heinous crimes and deserving criminals,” says Baumgartner. “But our research suggests it’s really not the worst of the worst being executed. It’s geographically arbitrary.”

## Unconstitutional

This is unconstitutional, Baumgartner argues. The 14th amendment states that everyone should be equally protected by the law. But judges and juries are much more likely to execute based on what they believe others expect of them, says Baumgartner. “The system separates out into places where district attorneys ‘don’t even try’, and where other DAs feel they ‘have to’,” he says.

Other biases shape death sentencing too. “The odds of getting a death sentence are three to four times higher for those who kill white people versus those who kill minorities,” says Radelet.

Overall, the number of executions taking place across the US is declining, but those that are still carried out are increasingly involving untested approaches, prompted by some pharmaceutical firms refusing to sell chemicals for the purpose of use in lethal injections. When jurisdictions try newer cocktails, it can lead to more painful, drawn-out deaths.

“There will always be botched executions,” says Garrett. “I was not a death penalty abolitionist when I started [research in this field], but I don’t see any other way to solve these problems.”

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