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CAPITAL PUNISHMENT
STUDIES ON DETERRENCE*

1. Hashem Dezhbakhsh and Paul H. Rubin, Emory University, and Joanna M. Shepherd, Clemson University and Emory University, *Does Capital Punishment Have a Deterrent Effect? New Evidence from Post-Moratorium Panel Data*, 5 *American Law and Economics Review* 344 (2003). [Dezhbakhsh/Rubin/Shepherd Study]
2. H. Naci Mocan, University of Colorado at Denver, and R. Kaj Gittings, Cornell University, *Getting Off Death Row: Commuted Sentences and the Deterrent Effect of Capital Punishment*, 46 *Journal of Law and Economics* 453 (2003) [Mocan/Gittings 2003 Study]
3. Dale O. Cloninger and Roberto Marchesini, University of Houston-Clear Lake, *Execution and Deterrence: A Quasi-Controlled Group Experiment*, 33 *Applied Economics* 569 (2001) [Cloninger/Marchesini Texas Study]
4. Zhiqiang Liu, State University of New York at Buffalo, *Capital Punishment and the Deterrence Hypothesis: Some New Insights and Empirical Evidence*, 30 *Eastern Economic Journal* 237 (2004) [Liu Study]
5. Joanna M. Shepherd, Clemson University, *Murders of Passion, Execution Delays, and the Deterrence of Capital Punishment*, 33 *Journal of Legal Studies* 283 (2004) [Shepherd Study]
6. Paul R. Zimmerman, *State Executions, Deterrence and the Incidence of Murder*, 7 *Journal of Applied Economics* 163 (2004) [Zimmerman 2004 Study]
7. Hashem Dezhbakhsh, Emory University, and Joanna M. Shepherd, Clemson University, *The Deterrent Effect of Capital Punishment: Evidence from a "Judicial Experiment,"* (*American Law & Economics Ass'n Working Paper No. 18, 2004*) [Dezhbakhsh/Shepherd Study]
8. Dale O. Cloninger and Roberto Marchesini, University of Houston-Clear Lake, *Execution Moratoriums, Commutations and Deterrence: The Case of Illinois*, 38 *Applied Economics* 967 (2006) [Cloninger/Marchesini Illinois Study]
9. H. Naci Mocan, University of Colorado at Denver, and R. Kaj Gittings, Cornell University, *The Impact of Incentives on Human Behavior: Can We Make It Disappear? The Case of the Death Penalty*, National Bureau of Economic Research Working Paper No. 12631 (Oct. 2006) [Mocan/Gittings 2006 Study].

* This information was compiled and provided by the NC Attorney General's Office.

10. Joanna M. Shepherd, Emory University, *Deterrence versus Brutalization: Capital Punishment's Differing Impacts Among States*, 104 Michigan Law Review 203 (2005) [Shepherd 2005 Study]
11. John Donohue, Yale University, and Justin J. Wolfers, The Wharton School, University of Pennsylvania, *Uses and Abuses of Empirical Evidence in the Death Penalty Debate*, 58 Stanford Law Review 791 (2005) (American Law & Economics Association Annual Meeting Working Paper No. 44) [Donohue/Wolfers Study]
12. Jeffery Fagan, Columbia Law School, *Death and Deterrence Redux: Science, Law and Causal Reasoning on Capital Punishment*, 4 Ohio State Journal of Criminal Law 255 (2006) [Fagan Study]
13. Richard Berk, *New Claims About Executions and General Deterrence: Déjà vu All Over Again*, 2 Empirical Legal Studies 303 (2005) [Berk Study]
14. Paul R. Zimmerman, *On the Uses and "Abuses" of Empirical Evidence in the Death Penalty Debate*, (2006) [Zimmerman 2006 Study]
15. Gary S. Becker, *On the Economics of Capital Punishment*, Economists' Voice 3, article 4 (Mar. 2006), available at <http://www.bepress.com/ev/vol3/iss3/art4/>.
16. Richard A. Posner, *The Economics of Capital Punishment*, Economists' Voice 3, article 3 (Mar. 2006), available at <http://www.bepress.com/ev/vol3/iss3/art3/>.
17. Paul H. Rubin, *Reply to Donohue and Wolfers on the Death Penalty and Deterrence*, Economists' Voice 3, article 4 (Apr. 2006), available at <http://www.bepress.com/ev/vol3/iss5/art4/>.

SYNOPSIS OF PAPERS/STUDIES:

(2003) Emory University Economics Department Chairman Hashem Dezhbakhsh and Emory Professors Paul Rubin and Joanna Shepherd state that "our results suggest that capital punishment has a strong deterrent effect. An increase in any of the probabilities -- arrest, sentencing or execution -- tends to reduce the crime rate. In particular, each execution results, on average, in eighteen fewer murders -- with a margin of error of plus or minus ten."¹ Their data base used nationwide data from 3,054 US counties from 1977-1996.

¹ Hashem Dezhbakhsh and Paul H. Rubin, Emory University, and Joanna M. Shepherd, Clemson University and Emory University, *Does Capital Punishment Have a Deterrent Effect? New Evidence from Postmoratorium Panel Data*, 5 American Law and Economics Review 344 (2003), [Dezhbakhsh/Rubin/Shepherd Study]

(2003) University of Colorado (Denver) Economics Department Chairman Naci Mocan and Graduate Assistant R. Kaj Gittings found "a significant relationship among the execution, removal, and commutation rates and the rate of homicide. Each additional execution decreases homicides by about five, and each additional commutation increases homicides by the same amount, while one additional removal from death row generates one additional homicide." Their data set contains detailed information on the entire history of 6,143 death sentences between 1977 and 1997 in the United States.²

(2001) University of Houston Professors Dale Cloninger and Roberto Marchesini found that death penalty moratoriums contribute to more homicides. They found: "The (Texas) execution hiatus (in 1996), therefore, appears to have spared few, if any, condemned prisoners while the citizens of Texas experienced a net 90 (to as many as 150) additional innocent lives lost to homicide. Politicians contemplating moratoriums may wish to consider the possibility that a seemingly innocuous moratorium on executions could very well come at a heavy cost."³

(2004) SUNY (Buffalo) Professor Zhiqiang Liu finds that legalizing the death penalty not only adds capital punishment as a deterrent but also increases the marginal productivity of other deterrence measures in reducing murder rates. "Abolishing the death penalty, therefore, not only discards a valuable deterrent but also lowers the marginal productivity of other possible deterrents in reducing murder." "[T]he deterrent effects of the certainty and severity of punishments on murder are greater in retentionist [death penalty] states than in abolitionist [non death penalty] states. These results are fairly robust to alternative specifications and competing hypotheses and lend support to the deterrence hypothesis concerning capital punishment and other deterrents."⁴

² H. Naci Mocan, University of Colorado at Denver, and R. Kaj Gittings, Cornell University, *Getting Off Death Row: Commuted Sentences and the Deterrent Effect of Capital Punishment*, 46 Journal of Law and Economics 453 (2003) [This is a revised version of H. Naci Mocan and R. Kau Gittings, University of Colorado at Denver, *Pardons, Executions and Homicide*, Journal of Law and Economics (forthcoming) (Oct. 2001) Online versions located at <http://econ.cudenver.edu/beckman/kai.pdf>]

³ Dale O. Cloninger and Roberto Marchesini, University of Houston-Clear Lake, *Execution and Deterrence: A Quasi-Controlled Group Experiment*, 33 Applied Economics 569 (2001).

⁴ Zhiqiang Liu, State University of New York at Buffalo, *Capital Punishment and the Deterrence Hypothesis: Some New Insights and Empirical Evidence*, 30 Eastern Economic Journal 237 (2004).

(2003) Clemson University Professor Joanna Shepherd found that "each execution results in, on average, three fewer murders. Longer waits on death row reduce the deterrent effect. Therefore, recent legislation to shorten the time prior to execution should increase deterrence and thus save more innocent lives. Moratoriums and other delays should put more innocents at risk. In addition, capital punishment deters all kinds of murders, including crimes of passion and murders by intimates. Murders of both blacks and whites decrease after executions."⁵

(2004) Dr. Paul Zimmerman, Senior Economist, Federal Communications Commission, finds: "Specifically, it is estimated that each state execution deters somewhere between 4 and 25 murders per year (14 being the average). Assuming that the value of human life is approximately \$5 million [i.e. the average of the range provided by Viscussi (1993)], the estimates imply that on average each execution results in society avoiding the loss of approximately \$70 million per year, all else equal (i.e., ignoring all other corresponding social benefits and costs of implementing capital punishment." The study used state level data from 1978 to 1997 for all 50 states (excluding Washington D.C.).⁶

(2003) Emory University Economics Department Chairman Hashem Dezhbakhsh and Clemson University Professor Shepherd found: "The results are boldly clear: executions deter murders and murder rates increase substantially during moratoriums. The results are consistent across before-and-after comparisons and regressions regardless of the data's aggregation level, the time period, or the specific variable to measure executions."⁷

(2006) In a review of Illinois state data, University of Houston Professors Dale Cloninger and Roberto Marchesini found that the data suggested 150 additional Illinois citizens died in a four year period because Governor George Ryan suspended executions and commuted all death sentences.⁸

⁵ Joanna M. Shepherd, Clemson University, *Murders of Passion, Execution Delays and the Deterrence of Capital Punishment*, 33 *Journal of Legal Studies* 283 (2004).

⁶ Paul R. Zimmerman, *State Executions, Deterrence and the Incidence of Murder*, 7 *Journal of Applied Economics* 163 (2004).

⁷ Hashem Dezhbakhsh, Emory University, and Joanna M. Shepherd, Clemson University, *The Deterrent Effect of Capital Punishment: Evidence from a "Judicial Experiment,"* (American Law & Economics Ass'n Working Paper No. 18, 2004) available at <http://law.bepress.com/cgi/viewcontent.cgi?article=1017&context=alea>

⁸ Dale O. Cloninger and Roberto Marchesini, University of Houston-Clear Lake, *Execution Moratoriums, Commutations and Deterrence: The Case of Illinois*, 38 *Applied Economics* 967 (2006).

(2006) University of Colorado (Denver) Economics Department Chairman Naci Mocan and Graduate Assistant R. Kaj Gittings found that the original findings of their Mocan/Gittings 2003 Study "are robust, providing evidence that people react to incentives in the domain of capital punishment."⁹

(2005) Emory University School of Law Assistant Professor Joanna M. Shepherd found that the impact of executions differs substantially among the states, and that, in general, states that have executed more than nine people in the last twenty years experience deterrence. In states that have not reached this threshold, executions generally increase murders or have no significant impact. "On average across the U.S., executions deter crime because the states with deterrence execute many more people than do the states without it."¹⁰

(2005) Yale University Law Professor John J. Donohue and Justin Wolfers, Assistant Professor of Business and Public Policy at the Wharton School, University of Pennsylvania, critique, among other deterrence studies, the Dezhbakhsh/Shepherd Study, the Mocan/Gittings 2003 Study, the Zimmerman Study, the Dezhbakhsh/Rubin/Shepherd Study, the Cloninger/Marchesini Illinois Study, and the Cloninger/Marchesini Texas Study, concluding that "[t]he U.S. data simply do not speak clearly about whether the death penalty has a deterrent or antideterrent effect. [footnote omitted] The only clear conclusion is that execution policy drives little of the year-to-year variation in homicide rates. As to whether executions raise or lower the homicide rate, we remain profoundly uncertain."¹¹

(2006) Columbia Law School Professor Jeffrey Fagan critiques the recent deterrence studies, and concludes that "[t]he new deterrence literature fails to provide a stable foundation of scientific evidence on which to base law or policy."¹²

⁹ H. Naci Mocan, University of Colorado at Denver, and R. Kaj Gittings, Cornell University, *The Impact of Incentives on Human Behavior: Can We Make It Disappear? The Case of the Death Penalty*, National Bureau of Economic Research Working Paper No. 12631 (Oct. 2006) [available at <http://www.nber.org/papers/w12631>]

¹⁰ Joanna M. Shepherd, Emory University, *Deterrence versus Brutalization: Capital Punishment's Differing Impacts Among States*, 104 Mich. L. Rev. 203 (2005), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=781504.

¹¹ John Donohue, Yale University, and Justin J. Wolfers, The Wharton School, University of Pennsylvania, *Uses and Abuses of Empirical Evidence in the Death Penalty Debate*, 58 Stanford Law Review 791 (2005) [American Law & Economics Association Annual Meeting Working Paper No. 44, available at <http://law.bepress.com/cgi/viewcontent.cgi?article=1842&context=alea>]

¹² Jeffery Fagan, Columbia Law School, *Death and Deterrence Redux: Science, Law and Causal Reasoning on Capital Punishment*, 4 Ohio St. J. of Crim. L. 255 (2006), available at <http://ssrn.com/abstract=935102>

(2005) UCLA Statistics Professor Richard Berk critiques the Mocan/Gittings 2003 Study, and concludes that "the results raise serious questions about whether anything useful about the deterrent value of the death penalty can ever be learned from an observational study with the data that are likely to be available."¹³

(2006) Dr. Paul Zimmerman, Senior Economist, Federal Communications Commission shows that the Donohue/Wolfers Study makes "a number of misrepresentations and errors in assessing the results and conclusions put forward in the [Zimmerman 2004 Study]'s analysis, and as such, their criticisms of the latter are effectively vacuous."¹⁴

(2006) Gary S. Becker, Nobel Laureate, Senior Fellow at the Hoover Institution, and a University Professor of Economics and Sociology at the University of Chicago, in response to the Donahue/Wolfers Study, states that "capital punishment has an important deterrent effect even with the way the present system actually operates," and that "[i]t is very disturbing to take someone's life, even a murderer's life, but sometimes highly unpleasant actions are necessary to deter even worse behavior that takes the lives of innocent victims."¹⁵

(2006) Richard A. Posner, Circuit Judge of the United States Court of Appeals for the Seventh Circuit, and a Senior Lecturer at the University of Chicago, states that "even with the existing, excessive, delay [in executions], the recent evidence concerning the deterrent effect of capital punishment provides strong support for resisting the abolition movement."¹⁶

(2006) Paul H. Rubin, Professor of Economics and Law at Emory University, responds to the criticisms of the Donahue/Wolfers Study about the Dezhbakhsh/Rubin/Shepherd Study.¹⁷

¹³ Richard Berk, *New Claims About Executions and General Deterrence: Déjà vu All Over Again*, 2 J. Empirical Legal Stud. 303 (2005) [Berk Study]

¹⁴ Paul R. Zimmerman, *On the Uses and "Abuses" of Empirical Evidence in the Death Penalty Debate*, (Nov. 2006), available at <http://ssrn.com/abstract=948424>.

¹⁵ Gary S. Becker, *On the Economics of Capital Punishment*, *Economists' Voice* 3, art. 4 (Mar. 2006), available at <http://www.bepress.com/ev/vol3/iss3/art4/>.

¹⁶ Richard A. Posner, *The Economics of Capital Punishment*, *Economists' Voice* 3, article 3 (Mar. 2006), available at <http://www.bepress.com/ev/vol3/iss3/art3/>.

¹⁷ Paul H. Rubin, *Reply to Donohue and Wolfers on the Death Penalty and Deterrence*, *Economists' Voice* 3, article 4 (Apr. 2006), available at <http://www.bepress.com/ev/vol3/iss5/art4/>.