

Chapter 4

The Shifting Terms of Debate

Since the mid-1990s, dramatic shifts have occurred in how Americans discuss the death penalty. Public debate on this topic has never been completely monolithic, of course. Like any complex issue, the death penalty involves multiple dimensions of evaluation: Constitutional ramifications; how it is administered; how equal application of the law may be ensured; what crimes merit the death penalty and what kinds of mitigating circumstances point against it; debate around the death penalty involves all these questions and more. In this and the following chapter, we review in detail the nature of media coverage of the death penalty since 1960. Our evidence demonstrates that the new “innocence” frame is the single most powerful frame and the one with the greatest potential impact ever to enter the debate. We focus in this chapter on explaining our data collection and coding processes and on describing the shifting nature of the debate as reflected in the *New York Times*. The chapter demonstrates huge changes in how the debate has been constructed and how the topics of attention have shifted over time. We also show that these characteristics are not peculiar to the one newspaper that is our main focus by comparing the *Times* with ten other news outlets. In the next chapter, we assess the strength and power of the innocence frame, comparing it statistically to other powerful frames that have existed, and pointing out how many of the individual component arguments that together create the innocence frame are not themselves new to the debate. Rather than being constructed *de novo*, the arguments that together constitute the innocence frame have long been present, but

never have they had the resonance or power that they have today because in the past they were not used together in the same way as they have been since the rise of the innocence frame.

Documenting the Shifting Foci of Debate

We seek to trace the evolution of public debate surrounding the death penalty as systematically and as completely as possible. To do this we analyze all coverage of the issue in the nation's leading newspaper, and we construct a list of every distinct argument made for or against the death penalty over time. In this way, we trace the shifting foci of attention: Does media coverage at some points focus exclusively on discussions of morality, later to focus on complex constitutional or legal questions? Is there a constant mix, with no particular theme dominating the others? Exactly what is the nature of public discussion of the issue at any point in time, as indicated by media coverage? Is discussion predominantly in favor, against, or neutral with regard to the death penalty? Do any trends in the critical or approving tone of coverage relate to shifts in attention from one aspect of the issue to another? If there are no clear trends here, then we cannot speak of the rise of the innocence frame, and we could not expect any significant impact on either the legal system, public debate generally, or public opinion. It is important to get these measurement issues right so that we can be sure that a shift in the public debate really has occurred.

We analyzed every article listed in the *New York Times Index* under the heading "capital punishment" between 1960 and 2005 (3,939 abstracts in all). We chose the *Times* not because we believe it has a direct impact on public opinion or courtroom behavior, but simply because it is the single best source of information available. As a national newspaper, it has a wider range of coverage than most others (though of course it has significant coverage of "home town" issues relating to events in New York City as well as in New York and neighboring states). Several

scholars have looked at the relationship between the *Times* and other sources, and there are substantial links; that is, in terms of amount of coverage, when one major newspaper covers a story, so do many other papers (see Woolley 2000; Althaus et al. 2001; Soroka 2002). Our interest is not so much exactly what the paper is reporting, however, but in how this reporting changes over time. Are there themes today that were once absent? Have previously important elements of capital punishment reporting fallen away over time? Even if the *Times* may differ from any other particular newspaper we might have chosen, we have no reason to expect that the trends we observe would be substantially different over time if we had looked at different papers (and we will verify this below). It stands to reason, for example, that the *Times* might differ from other papers in terms of levels of coverage and editorial tone. Even without considering different editorial stances or journalistic biases, the *Miami Herald* or the *Houston Chronicle* might be expected to show more pro-death penalty coverage simply because there are so many executions in those states compared to New York and its surrounding states. By itself, state sanctioning of the death penalty might lead to different levels of coverage and, most likely, to a higher percentage of stories that we would code as pro-death penalty in tone. Contrary to these expectations, however, we find well-matched coverage of the anti-death penalty innocence frame across major national papers, even the *Houston Chronicle*. In any case, we are less interested in absolute levels of coverage than in changes over time in the level of coverage and the topics of discussion. If social discussion, legal debate, constitutional arguments, and political responses to the death penalty have changed over time, this should be reflected in the *Times* as in any other news outlet. As we will discuss at the end of this chapter, we have also compared the amount of *Times* death penalty attention to attention by other major newspapers and found remarkable correspondence. This finding holds true, first, when comparing the *Times* to the *Readers' Guide*

to *Periodical Literature*. And second, we have compared the *Times* coverage to the innocence frame to coverage of the innocence frame in other major papers. Again in this case, we have found the *Times* to track closely with alternate papers, including the *Houston Chronicle*, thus validating the *Times* as a representative source for our purposes.

Rather than perform a full-text search of *Times* articles using a computer-based search engine, we used the printed annual volumes of the *Index* to the newspaper. Trained indexers at the *Times* assign each published article to one of several hundred distinct subject categories, one of which is “capital punishment.” Not all articles dealing with the issue are included here—there are certainly individual court cases where there is some possibility of capital punishment discussed, legislative debates that cover many issues including capital punishment, and speeches by politicians or political leaders that mention the topic among others; none of those would necessarily be included here. By using the subject categorizations in *New York Times Index* as opposed to an electronic search based on key words, we were actually able to retrieve a more appropriate set of articles. Electronic key word searches on “capital punishment,” the “death penalty,” and word variants do not retrieve the entire set of abstracts that appear in the *Index*; such searches also yield high numbers of irrelevant or only marginally relevant hits. What is included in our database is every article of which the *primary focus* was capital punishment. This is exactly what we want.

Finally, we coded the abstracts appearing in the *Index*, not the full text of the articles themselves. Abstracts are typically just a few sentences long, and summarize the main points of the article. Of course much information is lost in this process; analysis of the full text would undoubtedly yield a richer knowledge of what was discussed. On the other hand, the shorter abstract included in the index creates a high threshold of importance; only the most essential

ideas of the article are included. This means that our analysis is automatically limited only to the most important themes. A full text search would have required that we distinguish somehow between those elements of the article that were most central compared to those that were mentioned in passing, for example. By using the *Index*, then, we limit our focus only to those articles whose central focus is about capital punishment, and by using only the abstracts we know that we are analyzing only those themes that were the most important elements of each story. (Of course, limiting our work in this way made the project much more feasible as well, allowing us to cover over 45 years of history without sampling.)

With copies of the *Index* abstracts in hand, we designed a database to record systematically what was included in each story. Two coders worked in parallel to read each abstract and code it according to the coding procedures described briefly in this chapter and more fully in Appendix A.ⁱ These coders met regularly together and with the senior author to ensure they were in agreement on any marginal cases, and both coders coded a number of cases to test reliability. Most of the variables included were purely factual (e.g., the date of the story), and for those that required substantial judgment, we tested reliability by having both coders code a sample of cases without seeing how the other had coded them. Agreement was always over 90 percent.

Much of the information we gathered was purely descriptive: The date of the story; the article type (i.e., news, editorial, op-ed, or letter to the editor); whether the article mentioned any of the following things: Characteristics of the victim (e.g., victim is police officer, child, woman, or elderly); characteristics of the defendant (e.g., defendant is terrorist, racial minority, juvenile, mentally handicapped, or suffered abuse as child); mode of execution (e.g., electric chair, lethal injection, or firing squad); type of crime committed; violent or gruesome nature of

crime committed; and legislative action. These variables were straightforward, as the coders' instructions were simply to indicate if the item was mentioned or not. We designed a data entry form so that the coders merely checked a box for each item if it was mentioned. A single abstract could be coded in many ways depending on how many relevant elements were mentioned.

We were interested as well in the overall tone of the article, of course. For each article coders noted whether it had an overall pro- or anti-death penalty orientation. This tone measure referred not necessarily to any editorial stance by the journalist or the *Times*, but rather whether the story focused on actions or opinions that would tend towards or against the application of the penalty. So a story about a defendant or an inmate losing an appeal of habeas corpus would be coded pro-death penalty; a story about a legislative debate to enact a moratorium on death sentences would be coded anti-death penalty. Stories including mentions of both anti- and pro-death penalty arguments were coded neutral if they were perfectly balanced or pro- or anti- if the majority of the arguments or actions reported tended in one way. This coding allowed us to summarize the overall tone of each article. Thirty-five percent of the stories were coded pro-; 44 percent anti- and 21 percent neutral / not codeable.

The most important element of our coding was in constructing an exhaustive list of 65 possible arguments about the death penalty, divided for their own part into pro-, anti- and neutral arguments.ⁱⁱ These 65 arguments constitute the building blocks of framing as we understand it. In the political science literature on framing, scholars have used various techniques to study how an issue, or a particular text addressing that issue, is framed. Generally, scholars agree on more or less the same definition of framing: The presentation or discussion of an issue from a particular viewpoint to the exclusion of alternate viewpoints. Most scholars also agree that

framing falls into the “you know it when you see it” category of phenomena. But the process of identifying and recording frames for the sake of research is more difficult, and over time researchers have developed a number of different methods to accomplish this task. Some have used qualitative analyses, focusing on informal narratives to describe how framing of an issue has changed over time (Carroll and Ratner 1999; Elder and Cobb 1983; Hancock 2004; Kingdon 1984; Pollock 1994; Riker 1982; Sparks 2003). Others have used quantitative approaches, typically devising a coding system to count attention to the arguments and dimensions of a given debate (Baumgartner 1989; Kellstedt 2000; Terkildsen 1997 and 1999). The term “dimension” refers to a reference category—a “framework”—from which to view an issue. So, for example, Baumgartner and Jones (1993) counted articles on such issues as nuclear power, pesticides, and drug abuse. They either coded the articles by their tone (e.g., positive or negative towards the industry in question) or focused on a small number of predefined underlying dimensions (e.g., education and treatment v. enforcement and punishment in the area of drug abuse). In general, these dimensions are small in number and are based around commonly understood core concepts such as morality, economic issues, etc. This method allows researchers to trace which frames are dominant at various periods and, thus, to show how overall attention is distributed differently among dimensions at different times. We build on these approaches here. And while our primary purpose is to describe the methods used in our analysis of the *New York Times* death penalty coverage, we encourage the reader to consider our approach to the study of framing as a more generic method that could be employed in the study of any other issue debate.

We understand framing to be a complex process, but one that nonetheless may be identified, broken down into component parts, and analyzed. We treat specific arguments that may be made about an issue—for, against, or in neutral reference to a particular policy stance—

as the smallest units of framing. And we hold that these arguments fall naturally into broader dimensions of debate, such as cost or morality. “Framing” can occur through use of a single argument, a cluster of arguments within a single dimension, or even a cluster of arguments across different dimensions (we will discuss this last option in detail in Chapter 5). This is why we coded each story at such a detailed level, with 65 specific arguments, and why we allowed each story to be coded for as many arguments as were mentioned.

The 65 exhaustive arguments we developed were clustered within seven dimensions: efficacy, morality, cost, constitutionality, fairness, mode of execution, and international issues. We based these predefined dimensions and component arguments on our understanding of the issue gained from reading books, scholarly articles, and newspaper stories on the topic and also from conversations with activists in the area. We attempted to be systematic and complete. Within a single dimension, such as efficacy, numerous more specific arguments can coexist and these can be either complementary (the death penalty deters potential criminals; the death penalty incapacitates criminals from striking again), or contradictory (deterrence effects are strong; deterrence effects are weak). Each general dimension may consist of many individual arguments, and each may contain arguments both in favor of and in opposition to the death penalty. For example, in the case of deterrence, there may be arguments or assertions that it deters crime, that it does not, or that there is no agreement or not enough evidence to reach a conclusion. Table 4.1 provides a list of all 65 arguments we identified across the seven major dimensions of debate. The table also indicates the number of times we recorded use of each argument. Recall that each story could be coded multiple times if it mentioned multiple arguments.

(Insert Table 4.1 about here)

Table 4.1 is long but easy to read. Listed first are arguments about efficacy; 217 stories. Of these, 26 were general efficacy discussions which were neither pro- nor anti-death penalty in tone; we coded these argument 100, general efficacy. Argument numbers 101 to 109 were particular pro-death penalty arguments, as shown: the death penalty deters crime (argument 101, made 39 times); it incapacitates criminals; alternative sentences are not effective; and other pro-death penalty arguments. Arguments number 110 to 119 were anti-death penalty arguments along the same theme of efficacy, as shown. For each of the seven major dimensions (efficacy, morality, fairness, constitutionality, cost, mode, international, and other), we show the individual arguments in support of and in opposition to the death penalty and how many times each argument was made. Reading the table with attention to the frequencies reported gives a sense of what are the most common arguments in the debate; for those familiar with the issue there should be few surprises. Each dimension includes a -00 code (for neutral discussions) and a --9 code (for “other” and miscellaneous arguments). The reader can see that some of the dimensions have more individual arguments than others, and they are not all completely balanced. For example, in the general area of fairness, we identified five pro-death penalty arguments (the system is fair; the system is too lenient, appeals should be abbreviated, etc.), but we identified 13 different arguments in opposition to the death penalty. For each of these arguments, there could theoretically have been a directly opposed argument, but these were never made (and we do not list any arguments here that were never observed, though our initial coding scheme allowed for them). So the imbalance is a finding, not something imposed on the data by our coding procedures. International comparisons also were quite unbalanced, with few pro-death penalty arguments in this area. On the other hand, there were directly contradicting and parallel arguments within the areas of efficacy, constitutionality, cost, and mode of execution, and in

these areas we had roughly similar if not exactly identical numbers of arguments pro- and anti-. The note at the bottom of the table indicates that we identified 4,543 arguments in total across all the stories we read; an average of about 1.25 arguments per story. Most stories had just one.

The painstaking and detailed approach we have taken has many advantages. Each of the arguments laid out in Table 4.1 is defined in a consistent manner over time. That is, no arguments are defined in historically or contextually specific terms. For example, there is no argument for “Timothy McVeigh” or any other single defendant. No codes are created for any items that are unique historically or limited to only a single historic period. Rather, they are all listed in terms of the underlying question that they raise, and a different code is listed for each distinct argument made. In this way, we can compare the relative prevalence of different arguments over time. If we see the use of certain arguments rising or falling over time, we know that these are real trends, not artifacts forced on the data by our own coding processes. Each argument, at least in theory, could have been made at any point during the period from 1960 onward.

The second and most important benefit of our detailed approach is that it allows us to observe, rather than assert, the degree to which any given argument tends to be used in concert with others and the degree to which the topics of attention are associated with either pro- or anti-death penalty conclusions. The literature on framing and strategic advocacy suggests that proponents and opponents may well prefer to focus attention on different topics, justifying their conclusions not through direct refutation of a given argument, but by changing the subject to a topic that is more to their benefit. In other work, we have suggested that the innocence frame is more effective in influencing individual’s opinions than frames that reinforce the moral dimension (Dardis et al. 2007). We can directly assess the hypothesis that proponents and

opponents work to focus attention on different dimensions of the debate, and we do so in this chapter.

We described above the reasons for our decision to use the *New York Times Index* rather than the full text of the stories for our study. Is there sufficient information in these abstracts to allow the types of inferences we seek to make? Here are four sample abstracts:

1. In the death penalty cases decided a few days ago, the Supreme Court was asked whether, at the levels of civilization America had achieved by 1976, the taking of a human life was not so harsh and cruel as to be an impermissible punishment for the state to inflict. After reflecting on the judgments of a number of state legislatures, the Court decided that under the right circumstances, the death penalty does not violate the Constitution. (July 15, 1976)
2. For those who believe in capital punishment, Lemuel Smith seemed the perfect person for whom to reactivate New York's electric chair. Already serving long prison sentences for murder, he was convicted of savagely killing Donna Payant, a guard at Green Haven, and dumping her mutilated body in the prison trash. Could some mitigating circumstance possibly argue against his execution? (July 5, 1984)
3. When Governor George Ryan of Illinois called last month for a moratorium on executions in his state, he focused on the fact that 12 men on death row had recently been proven innocent. Sentencing an innocent person to death was, the governor said, "shameful," but he said little about how the legal representation these inmates had received at trial may have contributed to justice gone wrong. (February 13, 2000)
4. State of Missouri will execute 26-year old Antonio Richardson, mentally retarded man, despite pleas for clemency from mother of his two victims; he was 16 years old in 1991, when he murdered 20-year-old Julie Kerry and 19-year-old sister Robin. (March 6, 2001)

Table 4.2 shows how we coded information from the four stories.

(Insert Table 4.2 about here)

As these examples show, the abstracts contain enough information to gauge the main thrust of the story. Most of the coding is completely straightforward, noting simply whether certain factors, such as characteristics of the victim or defendant, were mentioned or not. The tone of the story is a subjective evaluation, but as these examples show it is usually very clear. In the case of abstracts that report a specific action, such as a court ruling or a state's impending

execution, the tone is based on the directionality of that action, not on any effort to ascertain irony or the viewpoint of the journalist or writer. Any story reporting on actions favorable to a defendant is coded anti-death penalty. Any story about an action making the death penalty more likely to be applied, or an opinion supporting this, is coded pro-death penalty. So the third example abstract is coded as anti-death penalty, not only because the person being quoted is critical of the death penalty but because of the moratorium decision that was decidedly anti-death penalty in nature. The fourth example, however, is coded as pro-death penalty because, despite the report of pleas for clemency from the victims' mother, the final action in this case is pro-death penalty in nature; namely, Missouri will indeed execute Antonio Richardson. Our list of 65 arguments is of course more complicated, but as we noted we achieved over 90 percent agreement when we had two coders code the same stories without seeing each others' work.

In sum, we have systematically coded almost 4,000 abstracts covering 46 years of history. If there are important trends in how capital punishment issues have been discussed or debated in American society over this time, our analysis should reveal it. If not, our data should reflect this null finding as well. In fact, we find that there have been important shifts in the nature of news coverage of the issue, and we describe these shifts in the next section.

The Amount and Tone of Attention

We begin with a simple presentation of how overall attention to the death penalty has changed over time. Figure 4.1 shows the number of *New York Times Index* abstracts relating to capital punishment from 1960 to 2005.

(Insert Figure 4.1 about here)

A total of 3,939 stories appeared during this time, with substantial peaks of coverage in 1976–1977, just after the Supreme Court reinstated the death penalty after the 1972 decision

invalidating state capital punishment laws, and then again in 2000. During these two periods, the newspaper carried over 150 articles per year: More than one story every other day. As the figure makes clear, the issue emerged onto the media agenda in the 1970s; there was little coverage, less than one article per week, before 1972. Coverage has grown substantially in recent years even though there has been no monumental Supreme Court decision such as those of 1972 and 1976. Rather, more recent coverage, especially that peaking in the unprecedented levels of coverage in 2000, related to the size of the death-row population and various challenges to the system based on juvenile offenders, the mentally handicapped, and the concept of “innocence” as we have already discussed.

Not only has the total amount of attention to the death penalty grown over time, but the issue has become more important as well. Figure 4.2 shows the number of stories about the death penalty that appeared on the front page with a linear trendline imposed on the figure. Remember that while the overall size of the paper may have changed over time (in fact, it was much bigger in the mid-1970s than in earlier or later years; see Baumgartner and Jones 1993, 265), the front page of today’s *New York Times* is precisely as big as it was in 1960 and in every year in between. So when we see that there was just one front-page story in 1960, two in 1970, four in 1980, eight in 1990, and 19 in 2000, this means something. Although these numbers fluctuate considerably around the trendline, this figure leaves no doubt that the death penalty has become increasingly prominent on the public agenda, and attention has been especially strong since the late 1990s.

(Insert Figure 4.2 about here)

The tone of coverage of the death penalty has also changed dramatically over time. There are many ways to assess this but we start in Figure 4.3 by showing the simple counts of

how many pro- and anti-death penalty articles appeared each year, according to our coding of each abstract's tone.

(Insert Figure 4.3 about here)

The figure shows separate lines for pro- and anti-death penalty stories; typically these rise and fall together. Periods of increased attention typically feature increases in both pro- and anti-death penalty stories. One story might mention trial events that lead to a successful appeal of a sentence, while another may mention an execution taking place or being scheduled. If media attention is to have a strong impact on public response to the issue, then we would want to know the relative mix of stories. Many stories, but an even balance between pro- and anti-death penalty tone, would indicate a broad mix of coverage with no substantial bias or overall net expected effect on public opinion. On the other hand, many stories focusing on one side of the debate without corresponding stories on the other side would reflect processes that are heavily biased toward one direction or the other. Such periods would reflect important social changes.

While the two series presented in Figure 4.3 are generally similar, there are some important differences between them. The overall balance of stories can most simply be assessed by taking the difference of the two series from Figure 4.3. Positive values, then, represent a surplus of pro-death penalty stories, just as negative values indicate a surplus of anti-death penalty stories. Figure 4.4 shows the "Net Tone" of *New York Times* coverage: The number of pro- minus the number of anti-death penalty stories.

(Insert Figure 4.4 about here)

Figure 4.4 makes several things clear. First, coverage tends to be relatively balanced. That is, as we saw in Figure 4.3, positive articles tend to be counter-balanced by negative articles, so the Net Tone variable typically fluctuates within a relatively narrow range centering

around zero. It is rare, in fact, for the values to exceed 20 in either direction. Second, there are nonetheless important trends. And third, the period around 2000 was the most unbalanced in history, by a large margin. This imbalance, unprecedented by historical standards, continues to the end of the series.

A net anti-death penalty tendency was apparent in news coverage of capital punishment leading up to the ban on executions in 1972. During the period of the constitutional moratorium (1972 to 1976), a substantial increase in pro-death penalty coverage followed; much of this was reporting of state legislative efforts to craft new capital laws that would pass constitutional muster. In the ensuing period, from approximately 1978 to 1993, a steady if erratic trend is apparent toward increased pro-death penalty reporting, reflecting increased use of capital punishment and greater numbers of death sentences. By 1993, the imbalance toward pro-death penalty abstracts appearing in the paper was as high as it had ever been, slightly higher even than in 1973 when states were just revising their laws to reinstate the penalty after they were overturned in 1972. This trend reverses again, and very dramatically, after the 1993 peak. From 1993 onward, a dramatic shift began to take place so that by 1997 there was a net predominance of negative abstracts. By 2000, after this trend had continued, a barrage of anti-death penalty news was consistently in the press. Coverage was the most unbalanced in history. In fewer than 10 years we had moved from one historic imbalance in public discussion to its exact opposite. The second one, in 2000, was by far the larger and was due to the rise of the innocence frame.

Again, our use of the overall tone of the stories is based not on journalistic preference or editorial stance of the newspaper. Any article reporting on activities that would lead toward the application of a death sentence is coded pro-death penalty; any story reporting activities that would tend against an execution is coded anti. We were able to code the vast majority of the

articles present in the paper in one direction or another (some were coded neutral / uncodeable). So the trends we observe in Figure 4.4 are not due solely to journalistic traditions of “balance” or covering both sides of any issue. Such a tendency would make each individual story balanced, but what we observe in Figures 4.3 and 4.4 are not individual stories, rather their sum over 12 months. Even though the editorial stance of the *Times* was anti-capital punishment throughout this period, and it can safely be assumed that most of its writers shared this perspective on the issue, a great many stories appeared that were pro-death penalty, and in some periods of history, notably in the 1970s and again in the 1990s, a substantial preponderance of the stories appearing each year was coded pro-death penalty. Clearly, these things reflect not so much any individual preference by the journalists, but are reflections of the activities “out there” in the legal community, in political circles, and in society relating to the issue. Note also that our measure of “Net Tone” relates not to any percentages, but to the absolute numbers of stories appearing. Where the coverage is balanced, reflecting equal numbers of pro- and anti-death penalty stories, this reflects a range of activities and should not be expected to have a substantial effect on public opinion or policy outcomes. Where coverage is substantially off balance, then this reflects larger numbers of reports of activities in one direction or the other. We can use the “Net Tone” of coverage then as a useful indicator of the state of public discussion. Where it is substantially off balance, we expect that it will indeed have an impact on policy outcomes and public opinion.

There are many reasons for the shifts in tone that we have documented here, and these shifts have many impacts. We explore the impacts of changing tone in later chapters; in the next sections we assess how the shifting tone of coverage came about. It was not simply a matter of shifting tone; rather, the topics of attention—the seven main dimensions and their component arguments—determine the tone.

The Topics of Attention

Shifting attention from one topic to another explains the variation in the Net Tone of attention that we have just documented. Some topics are relatively neutral or balanced, but most carry with them an almost automatic bias. When attention focuses on the idea of flaws in the system, for example, this is almost always bad news for supporters of the death penalty. Similarly, when attention focuses on the vicious nature of some horrible crime, the stories are overwhelmingly pro-death penalty. Here we explore the linkage between topic and tone.

As described earlier in this chapter, we coded each abstract for the presence of the comprehensive list we developed of 65 different arguments, clustered into seven major dimensions. Figure 4.5 shows the number of abstracts falling into each of these major topics over time.

(Insert Figure 4.5 about here)

Issues of constitutionality are the single most common theme in *New York Times* coverage over most of this period; 1,467 articles mentioned discussions of this type, with peaks coming in 1972, 1976 and the years following that, in the mid- to late 1980s, and finally in the early 21st century as the constitutionality of capital punishment for juveniles and the mentally handicapped became important controversies. Morality issues have also been prominent over time, with a total of 622 abstracts focusing on these. Discussion of morality has been prominent since 1972, especially from 1972 to 1978 when the constitutionality of the entire death penalty was hotly debated. Since then moral issues have never completely disappeared from the media agenda, but they have been significantly less prevalent. The fairness dimension (including arguments of innocence, evidence and flaws in the system) was not prominent before the 1980s, but began growing in 1983. It reached a peak in 2000 with 135 abstracts in that year alone; over the entire period there were 1,099 abstracts with innocence / fairness arguments. Many abstracts

fit into other categories focusing on international comparisons, efficacy (whether the penalty serves as a deterrent or not, for example), cost, mode of execution, or “other” topics (miscellaneous mentions of various particularities of the cases or otherwise did not fit into any particular theme).

In general, we can see from Figure 4.5 that constitutionality is a perennial theme; that morality has been an important theme as well; and that innocence/fairness has shown a dramatic increase from virtually no coverage before the 1980s to constituting more than half of the entire amount of coverage annually in many recent years. We can see this trend in greater detail in Figure 4.6, which delves deeper into the dramatic rise of the innocence question.

(Insert Figure 4.6 about here)

Figure 4.6 shows the number of abstracts each year presenting any of the following: 1) claims of innocence; 2) problems relating to evidence used in trial; 3) problems or imperfections in the justice system; or 4) characteristics of the defendant. This cluster of issues, ranging from simple humanization of the defendant to demonstrations of actual innocence through exonerations, has always been present, as the figure shows. However, none of these issues was a prominent aspect of media coverage of the death penalty until they collectively surged to unprecedented levels of coverage in 2000. From 1960 to the mid-1980s there was trivial coverage of these questions, typically fewer than ten articles even mentioning them (note that this includes even any mention of the characteristics of the defendant in the trial; abstracts at that time were much more likely to discuss the victim than the defendant). Coverage grew from the 1980s to the 1990s, but rocketed to new levels in 2000.

Figure 4.6 demonstrates how media attention to the question of innocence has been tremendously punctuated, but in Chapter 2 we showed that the underlying process (i.e., the rate

of exonerations) has been more incremental (see Figure 2.10). Further, the surge in media attention occurred in 2000 when there was no particular threshold or event relating to the absolute numbers of exonerations, though there was certainly increased discussion of flaws, especially beginning in 1995. The combined impact of clemency and exoneration is clearly important. However, the surge in media attention to “innocence” comes in 2000 whereas the clemency and exoneration numbers rise later. These data relate much more strongly to the findings we showed in Chapter 3 about the rise of the innocence movement and increased media attention to individual exonerees than they do to the underlying trends discussed in Chapter 2. But how would the public know about the underlying trends unless they were discussed in the media?

The Topic Determines the Tone

The increase in attention to fairness occurring in parallel with the increase in net anti-death penalty tone over the last decade exemplifies a more general finding: Knowing the topic of the abstract allows us to predict the tone. Some topics, such as how heinous the crime, are almost always associated with pro-death penalty coverage. Others, such as international comparisons and issues of innocence, are almost always featured in an anti-death penalty abstract. Figure 4.7 shows these relationships.

(Insert Figure 4.7 about here)

Abstracts mentioning morality issues may mention arguments on either side of the death-penalty debate, of course. These abstracts in fact are quite evenly split between pro- and anti-death penalty tones. Similarly, abstracts mentioning constitutionality questions may focus on issues favoring the defendant or those favoring the state; here too the tone is quite split (though with an average tendency of 60/40 anti-death penalty). When the topic shifts to fairness,

however, the vast majority (81 percent) of the coded articles are anti-death penalty. International comparisons, while less common, similarly have a powerful anti-death penalty bias. The various tendencies present in Figure 4.7 make clear that the shifting attention to various topics that we demonstrated in Figure 4.5 can be expected to relate to powerful changes in the overall tone over time, just like those shown in Figure 4.4.

From Victim to Defendant

Just as the topic of attention matters, whether an abstract mentions anything about the victim(s) or the defendant goes far in determining the overall tone of the article. Figure 4.8 shows this.

(Insert Figure 4.8 about here)

Overall, among all the stories we coded that received a tone, about 57 percent were anti-death penalty and 43 percent were pro-death penalty. This tone varies substantially, however, by mention of the victim or the defendant. Most articles mention neither a particular victim nor an individual defendant, discussing such things as the implications of Supreme Court decisions in general or state legislative debates about revising capital punishment laws and procedures. In fact, more than two-thirds of the stories (2,817 abstracts) mentioned neither a victim nor a defendant, and of the 2,159 stories in this group that were given either a pro- or anti-death penalty tone, about 40 percent were coded pro-death penalty, very similar to the overall total. Figure 4.8 shows, however, that stories mentioning anything about the victim were 64 percent pro-death penalty. Similarly, those mentioning anything about the defendant had only a 27 percent likelihood of being pro-death penalty.ⁱⁱⁱ Clearly, something about discussing the defendant can be said to humanize him or her, or is associated with discussions about imperfections or problems in the trial. Similarly, a focus on the victims of crime typically is

related to pro-death penalty abstracts, focusing for example on the heinous nature of the crime itself.

Contrary to what one might expect, *what* the article mentioned about the victims, including whether they were police officers, women, children, or if there were multiple victims has no significant impact on the tone of the article overall; *any* discussion of the victim was related to a pro-death penalty tone overall, as can be seen in Figure 4.9.

(Insert Figure 4.9 about here)

Figure 4.10 shows that, just like for victims, there were few differences across types of defendants: be they female, of various racial categories, or whatever, any focus on the defendant tends to be associated with an anti-death penalty tone. The one exception here is where the defendant is characterized as a terrorist, in which case the tone is more likely to be pro-death penalty. There were few such cases, however, as a proportion of the total.

(Insert Figure 4.10 about here)

Certainly, in the post- 9/11 era, there has been a rise in discussion of terrorism, so it may be remarkable that the anti-death penalty trends we have shown so far have persisted. It is, after all, an extremely hostile environment at the international level, and the nation has been at war since 2002. The vast bulk of death penalty cases in the US, however, remain of the mundane domestic criminal variety, not related to international terrorism. The focus on flaws in the justice system has not been overwhelmed by the war on terror. Yet one could easily imagine a scenario where this would not have been the case. Shortly after the 9/11 attacks, in fact, the Washington DC sniper shootings drew attention to crime in a powerful way, and there was considerable pro-death penalty discussion at the time. The states of Virginia and Maryland actually waged a short-lived dispute to decide who would be allowed to try, and potentially execute, John

Muhammad. Clearly, the turn away from the death penalty we have documented here is related to the topic of discussion; if the topic turns to terrorism or particularly heinous crimes, the tone could shift again. However, there are many reasons to suspect that this turn will not happen soon or easily.

Figures 4.8 through 4.10 have shown clearly that whether we are paying attention to the victim or to the defendant helps explain the tone of coverage. One of the most remarkable shifts in newspaper coverage and public discussion about the death penalty over the past few decades may be simply that we pay less attention to the victims and more attention to the defendants now. Figure 4.11 shows the number of mentions of the victim and the defendant.

(Insert Figure 4.11 about here)

Many stories mention neither the victim nor the defendant, of course. But attention to victims regularly outpaced attention to defendants throughout the period from 1960 to the early 1990s. There is some tendency for attention to both victims and defendants to increase and decrease in tandem, associated with fluctuations in overall levels of coverage. Figure 4.12 shows the number of mentions of the victim minus the number of mentions of the defendant, allowing a simple comparison of net attention to victims, just as we constructed in Figure 4.4 a measure of the Net Tone of coverage.

(Insert Figure 4.12 about here)

Figure 4.12 makes clear that attention has shifted dramatically from a traditional focus on the victim to a new emphasis on the defendant. Net coverage is consistently focused on the victim rather than the defendant throughout the series from 1960 through the early 1990s. We see the increased discussion of the victims of capital crimes during the 1970s (associated with significantly more pro-death penalty discussion in general during that time), some decline in

these numbers after the reinstatement of the death penalty in 1976, a steady rise in attention to the victims of crime in discussions of death-penalty issues until 1993, and then a dramatic and sustained reversal after that date. Since 1993, attention has increasingly focused on questions relating to the defendants in criminal trials rather than to victims.

Combined, the data in Figure 4.8 and 4.11 offer clear example of why proponents and opponents of the death penalty have different foci. While certainly not all of those close to the victims of violent crime support the death penalty, attention to victims is clearly associated with more abstracts favorable to the application of the death penalty. Similarly, many stories focusing on the defendant are pro-death penalty. On average, however, increased attention to the defendant rather than the victim is correlated with stories more critical of the death penalty. Again, we see that topic of discussion determines the tone.

Comparing the *New York Times* to Other Media Outlets

We validated our use of the *New York Times* as a proxy for national media coverage in two ways: first, by comparing the *Times* to the *Readers' Guide to Periodical Literature*; second, by comparing the *Times* to available data from nine other major US newspapers archived by Lexis-Nexis. We began by taking a count of the death penalty articles listed in the *Readers' Guide*, which catalogues all articles published in nearly 400 general interest magazines. The results of our count of articles listed in the *Readers' Guide*, show in Figure 4.13, support the conclusions we have drawn from the *New York Times Index*.

(Insert Figure 4.13 about here)

In parallel to the *Times* coverage presented in Figure 4.1, Figure 4.13 shows an unprecedented rise in *Readers' Guide* attention to the death penalty in 2000. The *Times* shows much greater sensitivity to constitutional developments surrounding the issue in the 1970s, issues

that did not register in the more general periodical coverage indexed in the *Readers' Guide*. Yet both sources show the surge in attention associated with the rise of the innocence argument. These findings illustrate the innocence movement as a major social phenomenon, not the creation of just one newspaper.

We also coded the tone (pro, anti, neutral / uncodeable) of the title of each article, and our findings relating to the tone of coverage in the *Times* can be tested against the *Readers' Guide*. Figure 4.14 shows the Net Tone of the stories appearing in the magazines and periodicals indexed there.

(Insert Figure 4.14 about here)

Like the *Times*, the *Readers' Guide* shows relatively even balance throughout most of the period. Coverage is consistently biased against the death penalty, remarkably more so, in fact, than in the *Times*. Coverage in the *Times* may have been more pro-death penalty at some times than that in the *Readers' Guide* because the *Times*, as a newspaper of record, reports on many factual activities related to state legislative debates, Supreme Court activities, or individual trials that reflect the efforts of prosecutors to obtain a death sentence, revise capital sentencing guidelines to make them more clearly acceptable, and other pro-death penalty actions. Significantly fewer of these appear in the *Readers' Guide*. For example, the *Readers' Guide* does not show the same increase in Net Tone during the 1980s and 1990s. However, like the *Times*, the *Readers' Guide* shows a dramatic decline in Net Tone of coverage around 2000. And both the *Times* and the *Readers' Guide* show that, while Net Tone has risen slightly since its dramatic drop in 2000, by 2005 the amount of anti-death penalty coverage in both venues significantly outweighs the amount of pro-death penalty coverage.

Our comparison of the *Times* to nine other major US papers offers additional validation of the use of the *Times* as a proxy of national news coverage. We employed Lexis-Nexis Academic Universe to count the number of death penalty articles^{iv} appearing in each of the following sources: *Boston Globe*, *Chicago Sun Times*, *Denver Post*, *Houston Chronicle*, *LA Times*, *Miami Herald*, *New York Times*, *Pittsburgh Post-Gazette*, *Seattle Times*, and *Washington Post*.^v The *Times* corresponds closely with these other news sources. Comparing the number of death penalty articles in the *Times* each year to the average number across the other papers yielded a correlation of about 0.7. Figure 4.15 shows this comparison.

(Insert Figure 4.15 about here)

In both the *Times* and across the other papers, we see a steady increase in attention to the death penalty over the last two decades.^{vi} Coverage peaks in 2001 but remains high from 2002 through 2005. The *Times* consistently devotes more attention to the death penalty than other papers, a fact which does not concern us. What matters is that the *dynamics* of the attention run parallel between the sources. When the *Times* increases its coverage of the death penalty, so too do other major papers. When death penalty stories lag in other papers, so too do they lag in the *Times*. Factor analysis provides yet another view of how well the *Times* coverage tracks with these other papers; the *Times* loads strongly (0.69) on the first factor based on the annual counts of stories across all ten papers.^{vii} This means that it moves statistically in tandem with the bulk of the other papers, not separately or independently from the others.

Finally, within the death penalty articles we located in Lexis-Nexis, we took a count of the number of articles employing the innocence frame—specifically, stories including reference to wrongful conviction, exoneration, or DNA evidence. As with the general death penalty coverage, the *New York Times* proved to be highly indicative of national coverage. The number

of *Times* stories giving attention to the innocence frame correlates at about 0.9 with the average number of such stories across the other major papers. Again, a scatter plot offers confirmation that this correlation is accurate. And in factor analysis the *Times* loaded very highly at 0.92 with the nine other series.

(Insert Figure 4.16 about here)

Figure 4.16 shows the comparison of innocence frame coverage in the *Times* and the other papers. Again, we see that the *Times* consistently pays more attention to issues of innocence than do the other papers, but the dynamics of this coverage—the ups and downs—track one another in parallel. In fact, this figure gives perhaps the strongest indication we can provide about the dramatic rise of the innocence frame. Across ten different newspapers in many areas of the country, it is clearly apparent. The coverage of the *Times*, on which we have focused, is largely replicated in the other papers.

(Insert Figure 4.17 about here)

As final illustration of the validity of the *Times* as a proxy for national coverage, we offer Figure 4.17, which compares attention to the innocence frame between the *New York Times* and the *Houston Chronicle*. If any major US paper could be suspected to buck the trend of giving credence to the innocence frame, the *Houston Chronicle* would be it. The death chamber in Texas is more active than any other in the nation, and Houston's Harris County is at the epicenter of many of these events. Instead, we see that attention to the innocence frame in the *Houston Chronicle* runs directly in line with the *Times* coverage. The *Times*, of course, pays more attention, but the *Houston Chronicle* pays its fair share—in 2003, it even surpasses the *Times*. In fact, the *Houston Chronicle* ranks fourth among the ten newspapers we studied in terms of total

number of stories with reference to the innocence frame, following (in order) the *Washington Post*, the *New York Times*, and the *Chicago Sun Tribune*.

In short, no matter which source we consult, we see an increase in attention to the death penalty over the last few decades, and most importantly a dramatic rise in use of the innocence frame. This changing definition of the death penalty debate was not a construct of a single, liberal-biased news source, and it was not limited to a particular city or geographic area; the redefinition of the death penalty from an issue of morality to an issue of system fallibility has been a national phenomenon of great consequence, as we will demonstrate in later chapters.

What Caused the Surge in Attention in 2000?

We saw in Figure 4.1 that *New York Times* coverage of capital punishment skyrocketed to its highest level in 2000, with 235 articles on the death penalty, surpassing the previous peak of 194 articles in 1977, the year following the reinstatement of the death penalty in the US. Figure 4.6 showed that 2000 also saw attention to innocence surge to the highest level on record, and in Figures 4.13, 4.15, and 4.16 we saw that these trends were not peculiar to the *Times* but were reflected as well in the *Readers' Guide* and in a selection of other major newspapers searched electronically since 1980. We have described this surge in attention to the death penalty as one manifestation of a larger social cascade surrounding the new innocence frame. Here we briefly consider whether the spike in media attention to the death penalty in 2000 could have been the product of a “perfect storm” of conditions focused on then-Texas Governor George W. Bush’s Presidential campaign and election. This alternate hypothesis posits that a handful of reporters, perhaps bored with the standard campaign beat or looking for a new angle on an old story, became interested in Texas’s death penalty policies and high execution rate. The spike in attention to the death penalty that we have observed, then, wasn’t about innocence at all, this

argument goes. It was about the fact that the Republican nominee was a man who had sanctioned more executions than any other person in the nation's history. After all during 2000, while occupied with campaigning for the Presidency, George W. Bush authorized 40 executions in Texas. As the Center for Media and Public Affairs President Dr. Robert Lichter stated, "They say that if it bleeds it leads, but it took a presidential election to make capital punishment newsworthy. The only certainties in life may be death and taxes, but the certainties in the campaign news this year are death and Texas."^{viii}

To test this "perfect storm" hypothesis, we analyzed the full text of all 235 *New York Times* death penalty articles in the year 2000 (remember that our larger data set was collected by reading article abstracts from the *New York Times Index*). We coded each article for certain issues, including: Mention of the Presidential campaign / election; mention of George W. Bush, Jeb Bush, Bill Clinton, or Al Gore; mention of a specific capital punishment case (e.g., Gary Graham, David Earl Gibbs, John Raul Garza); mention of individual states; and the author of the story. If the surge in attention to the death penalty in 2000 was actually the work of a few dogged journalists and not related to the rise of the innocence frame, then surely we would see prominent mention either of the campaign in general, of individual politicians, or of particular death penalty cases over which George W. Bush had presided.

Our results, however, show that none of these factors alone constitutes a sufficient explanation of the rise in articles. Our analysis suggests that it was not the politics surrounding the Presidential elections that led to increased death penalty coverage, but rather many different dimensions of the death penalty debate. As we expected, the 2000 coverage in fact centers around the concept of innocence: DNA testing, the possibility of executing the wrongly accused, and the death penalty moratorium declared by pro-death penalty Illinois Governor George Ryan.

Further, we can see that arguments about innocence and evidence became linked with arguments about the execution of juvenile defenders and the mentally disabled, arguments about race, and arguments about class. (The increased “resonance” of the innocence issue, how it came to be related to other, previously existing criticisms of the death penalty, is a theme we will explore in greater detail in Chapter 5.) The result of all this analysis is the conclusion that the surge in attention to the death penalty that we have observed had everything to do with intersecting questions of fairness and surprisingly little to do with the 2000 Presidential election.

Our review of all the articles published in 2000 shows that Texas did, in fact, receive substantial death penalty media coverage in 2000, with close to 50 percent of articles mentioning Texas. However, many articles in fact made reference to more than one state, with references to Texas constituting only about 30 percent of the total references to all states. (This amount is approximately the same percentage as Texas contributes to the national rate of death sentences.) While Governor George W. Bush was mentioned in approximately 36 percent of the articles in 2000, only 12 percent of the articles made reference to the electoral contest. In contrast, then-Illinois Governor George Ryan was mentioned in approximately 16 percent of the articles, and the state of Illinois was referenced in about 20 percent of them. These findings suggest that coverage of the death penalty in Texas was framed around particular fairness, humanistic, and legal issues that emerged in particular cases rather than Bush and his bid for the Presidency. Indeed, about 50 percent of all death penalty articles in 2000 made reference to one or more specific death penalty cases.

Another speculation regarding the increased media coverage of the year 2000 has been that a small number of journalists, stuck in Austin while covering George W. Bush’s Presidential campaign, were responsible for the majority of articles. In fact, the eight journalists with the

greatest number of stories published together combined for 57, or about 20 percent, of the articles that year. Besides 57 articles written by the eight journalists with the most common by-lines, there were 21 Associated Press stories, 14 editorials, six Reuters stories, and 137 stories written by 125 different authors / sources (this includes op-eds). In sum, the articles that appeared in the paper were written by a variety of sources, not a single journalist or small group of them on a campaign to publicize this issue. It was a large and collective event.

These findings reaffirm the Death Penalty Information Center (DPIC) conclusion that the year 2000 served as the “perhaps the most significant single year affecting death penalty opinion in United States history” due to the “broad change” in popular American views of capital punishment (Dieter 2000). This change, as we have shown, was not triggered only by Texas death penalty politics, then-Governor George W. Bush, and the electoral contest. Rather, the rise in attention constitutes “a steady sequence of eye-opening events,” such as a number of death row exonerations, increased commentary on the unfairness and inaccuracies of the death penalty system, government action to “limit or halt” the death penalty, and the apparentness of a “broken system” as attested by Governor Ryan’s actions to end the death penalty in his state (Dieter 2000).

Conclusion

Results of this data analysis show that the death penalty has long been understood and discussed in the media in terms of constitutionality and morality. Since the mid-1990s, however, a new issue-definition has arisen, and dramatically. The idea of flaws in the system, of innocent people being on death row, of the wrong people possibly being executed, has transformed the debate. In 1996 thirty articles appeared in the *New York Times* concerning capital punishment; the bulk of these reported opinions, news, or events leading toward the application of the death penalty. In

2000, 235 articles appeared and the overwhelming majority of them were critical. In just a few short years, the issue was reframed to focus on errors, mistakes, and the possibility of executing the wrong person.

This chapter has presented our highly detailed approach to studying the content of capital punishment stories in the media. We documented not only the historic shifts in the tone of coverage, from a preponderance of pro-death penalty stories to a surge in attention critical of capital punishment, but we have also taken some initial steps in explaining why this occurred. The tone of coverage is strongly associated with the topic of coverage. The topic of coverage has shifted not only from morality and constitutionality to the new questions associated with the innocence frame, but it also shifted from victims to defendants. The mid-1990s were a period during which a powerful shift occurred. This was all the more remarkable because this shift reversed a trend that had been steady since the modern era of capital punishment began in 1976: Increased use of the death penalty led to increasingly routine newspaper coverage of its application, a cycle that corresponded with consistent and growing public support for the penalty. But these powerful trends came to a halt, reversing so dramatically that we can truly identify the mid-1990s as a tipping point. Attention swelled to a new set of questions that previously had gotten very little traction in the public discussion about the death penalty. Some of these arguments were not in fact new, but they took on new power when they were combined into the innocence frame.

Here we have shown that these huge shifts can be measured with some simple content analytic techniques and that they were indeed very powerful changes. In later chapters we will show the impact of these changes on both public opinion and policy outcomes. Before moving on to those questions, we explore these questions of framing in greater detail in the following

chapter. We demonstrate the unique power of the innocence frame by comparing it to previous frames that were most important during earlier historical periods. We show that the frame's component arguments were not all new by any means. However, they were brought together in a single coherent set of related arguments that had a much greater resonance and power than the individual arguments could possibly have had alone or indeed than they did have when considered in earlier periods when they were not seen as part of a single coherent critique of the process. We can also assess empirically the strength and resonance of the new innocence frame as compared to previous frames that dominated attention at other times.

Chapter 5 develops some new methodological techniques to assess the evolving nature of public debate over the death penalty. The methods we develop there build on the detailed content analysis we presented in this chapter and should allow scholars to do similar studies in other issue-areas. However, the most important element of these new techniques is to allow us to assess the reasons for what we have observed in this chapter. The innocence frame is the most powerful new set of arguments ever to enter this debate. How did that happen?

Table 4.1. An Exhaustive List of Arguments Used Across All 3,939 Abstracts of *New York Times* Stories on Capital Punishment, 1960–2005.

<u>Pro-Death Penalty Arguments</u>	<u>Anti-Death Penalty Arguments</u>
<u>Efficacy</u> (217 total stories) <i>100. General</i> (26)	
101. Deters crime (39)	110. Does not deter crime (68)
102. Incapacitates criminals (3)	111. Alternate systems (e.g., life without parole) more effective (62)
103. Alternative systems, e.g., life without parole, less effective (8)	119. Other anti-death penalty efficacy arguments (14)
109. Other pro-death penalty efficacy arguments (12)	
<u>Morality</u> (622 total stories) <i>200. General</i> (38)	
201. Retribution; “eye for an eye” (10)	210. Killing / vengeance is wrong, even when performed by the state (68)
202. Victim’s family deserves justice / vengeance (8)	211. Victim’s family is opposed to death penalty (8)
203. Some crimes are so heinous they warrant the death penalty (300)	219. Other anti-death penalty moral arguments (198)
209. Other pro-death penalty moral arguments (36)	
<u>Fairness</u> (1,099 total stories) <i>300. General</i> (61)	
301. Death penalty proceedings are fair (22)	310. Defendants receive inadequate legal representation (106)
302. Proceedings are in fact too lenient; appeals should be abbreviated (60)	311. Death penalty is applied in arbitrary / capricious nature (37)
303. Wrongful conviction concerns are overstated (5)	312a. Proceedings are racist (143)
304. Vulnerable populations, e.g., juveniles, mentally handicapped, should not receive blanket immunity from death penalty (23)	312b. Proceedings are classist (32)
309. Other pro-death penalty fairness arguments (115)	312c. Capital punishment unfair to other demographic groups, e.g., defendants in Texas (23)
	313a. Unfair to execute vulnerable populations, e.g., juveniles, mentally handicapped (152)
	313b. Mitigating factors, e.g., defendant’s childhood abuse, are not given proper consideration in capital cases (28)
	314. Unfair for system to sentence an individual to death automatically without taking particular circumstances into account (23)
	315. Many juries would not imposed death penalty if alternate system, e.g., life without parole, was available (3)
	316. Defendants denied sufficient access to evidence, e.g., DNA (89)
	317. Innocence / wrongful conviction; human-run system cannot avoid making some mistakes (219)
	318. System is broken; moratorium should be established, at least until errors are reduced or eliminated (170)
	319. Other anti-death penalty fairness arguments (250)
<u>Constitutionality/Popular Control</u> <i>400. General</i> (213) (1,467 total stories)	
401. Death penalty does not constitute cruel and unusual punishment (31)	410. Death penalty constitutes cruel and unusual punishment (66)

402. Proceedings do not violate rights of due process and equal protection (29)	411. Proceedings violate rights of due process and equal protection (27)
403. Popular support / sovereignty; the death penalty is the will of the people (82)	412. Popular support / sovereignty; the death penalty goes against the will of the people (75)
404. States should maintain jurisdiction over capital punishment decisions; states should be allowed to enforce death penalty (16)	413. States should maintain jurisdiction over capital punishment decisions; states should not be forced to use death penalty (5)
405. Federal government should maintain jurisdiction over capital punishment decisions; government should be allowed to impose federal death penalty even in non-death penalty states (6)	414. Federal government should maintain jurisdiction over capital punishment decisions; government should be allowed to overrule state-level death sentences (3)
409. Other pro-death penalty constitutionality and popular control arguments (461)	419. Other anti-death penalty constitutionality and popular control arguments (671)
Cost (20 total stories) 500. General (5)	
502. Life imprisonment is more expensive than capital punishment (2)	510. The capital punishment system is not worth the high costs (8)
509. Other pro-death penalty cost arguments (1)	519. Other anti-death penalty cost arguments (4)
Mode of Execution (241 total stories) 600. General (124)	
601. Particular mode of execution, e.g., lethal injection, electric chair, gas chamber, is acceptable / humane / just (26)	610. Particular mode of execution, e.g., lethal injection, electric chair, gas chamber, is unacceptable / inhumane / unjust (90)
609. Other pro-death penalty mode of execution arguments (4)	619. Other anti-death penalty mode of execution arguments (7)
International (116 total stories) 700. General (15)	
709. Other pro-death penalty international arguments (5)	710. Other countries denounce death penalty; call on US to establish moratorium (64)
	711. Complications with extradition due to death penalty (3)
	712. US should not execute foreign nationals (29)
	719. Other anti-death penalty international arguments (23)
Other (4) 900. General (4)	

Note: The table shows each of the 65 arguments grouped by topic and tone. Numbers in parentheses indicate the number of *New York Times* stories in which the code in question was used from 1960 to 2005. We coded a total of 3,939 stories, and each story could include multiple arguments; thus the individual argument story counts usually sum to more than the total story count for each overarching dimension. In all, we identified a total of 4,543 arguments, as listed above.

Table 4.2. Example Coding for Three *New York Times* Abstracts.

Codes Received	Story 1	Story 2	Story 3	Story 4
Type of Story	news	news	news	news
Victim Characteristic(s)	--	Female	--	female
	--	police officer/guard	--	multiple
	--	--	--	victim's family
Defendant Characteristic(s)	--	--	--	mentally
	--	--	--	handicapped
				juvenile
Mode of Execution Specified?	No	Yes	No	No
Crime Specified?	No	Yes	No	No
Heinousness Specified?	No	Yes	No	No
Legislative Action?	Yes	No	No	No
Tone	pro-death penalty	neutral	anti-death penalty	pro-death penalty
Argument(s)	401: not cruel & unusual	313b: mitigating circumstances	317: innocence	211: victim's family opposed
	--	--	310: inadequate representation	--

Figure 4.1. The Number of Stories on Capital Punishment in the *New York Times Index*, 1960–2005.

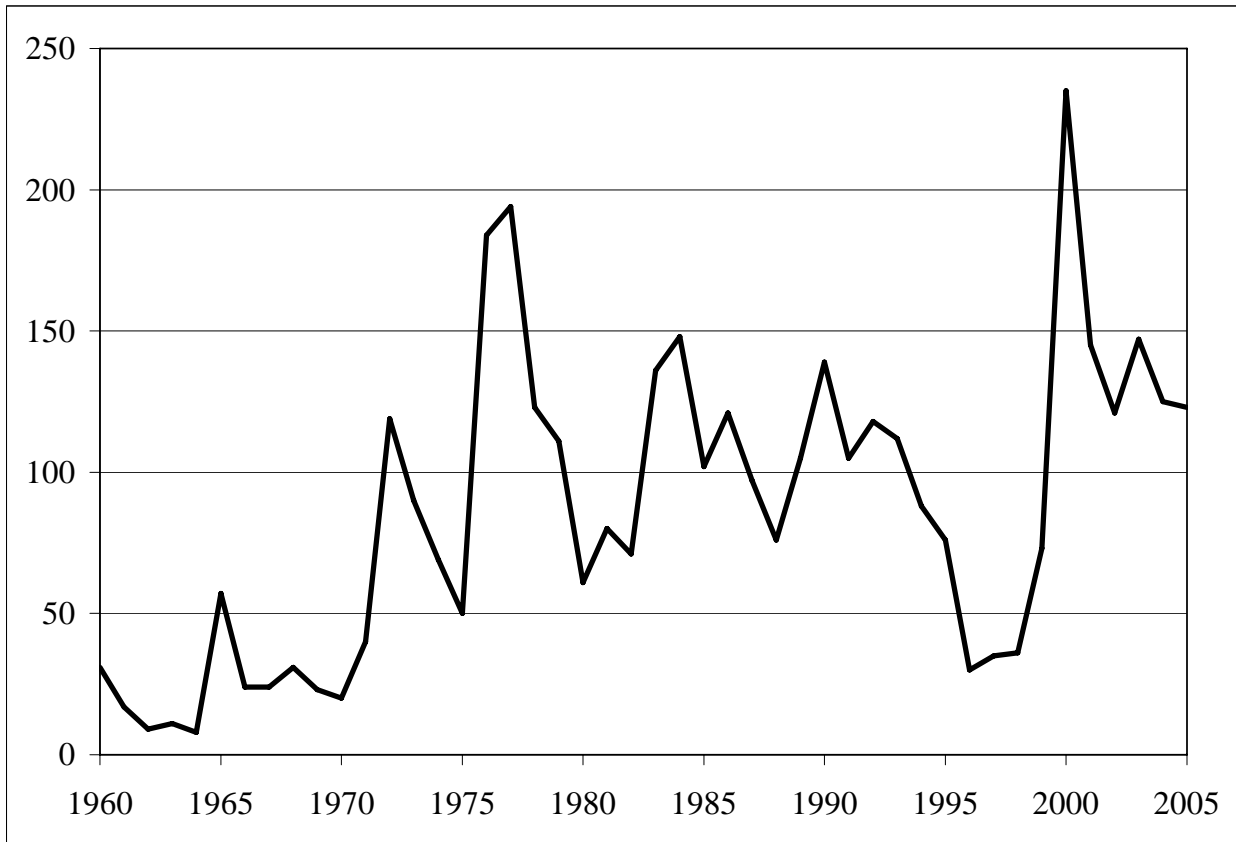


Figure 4.2. Front-Page Stories on Capital Punishment in the *New York Times Index*, 1960–2005.

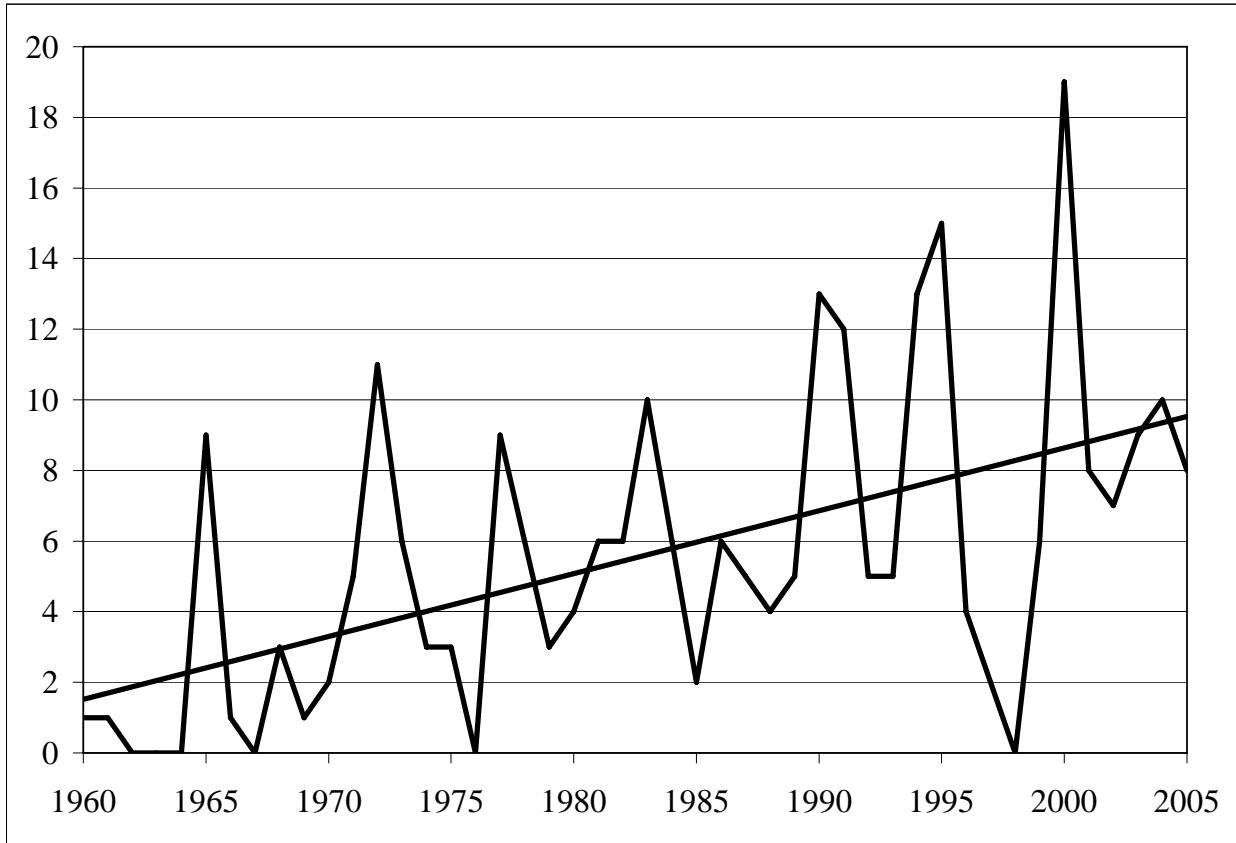


Figure 4.3. Pro- and Anti-Death Penalty Stories in the *New York Times Index*, 1960–2005.

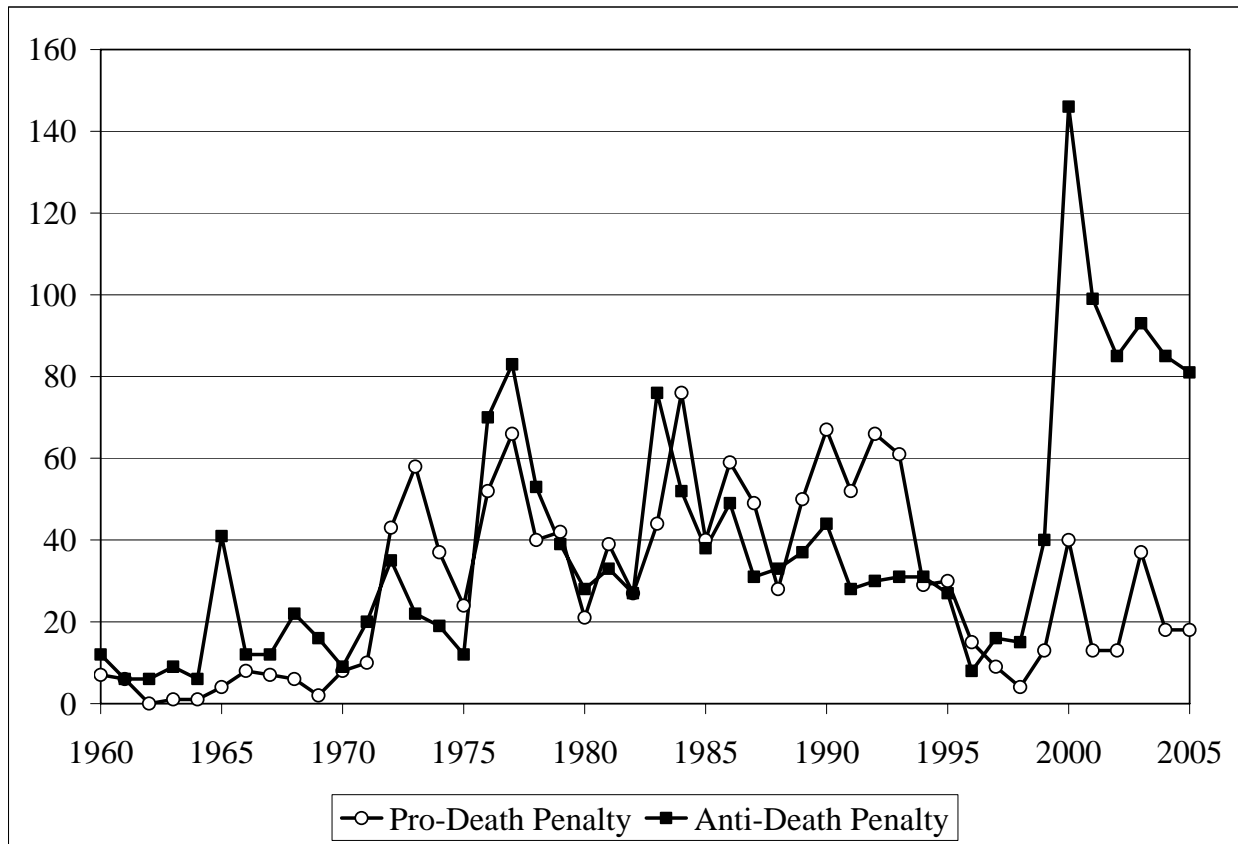


Figure 4.4. The Net Tone of *New York Times* Index Coverage, 1960–2005.

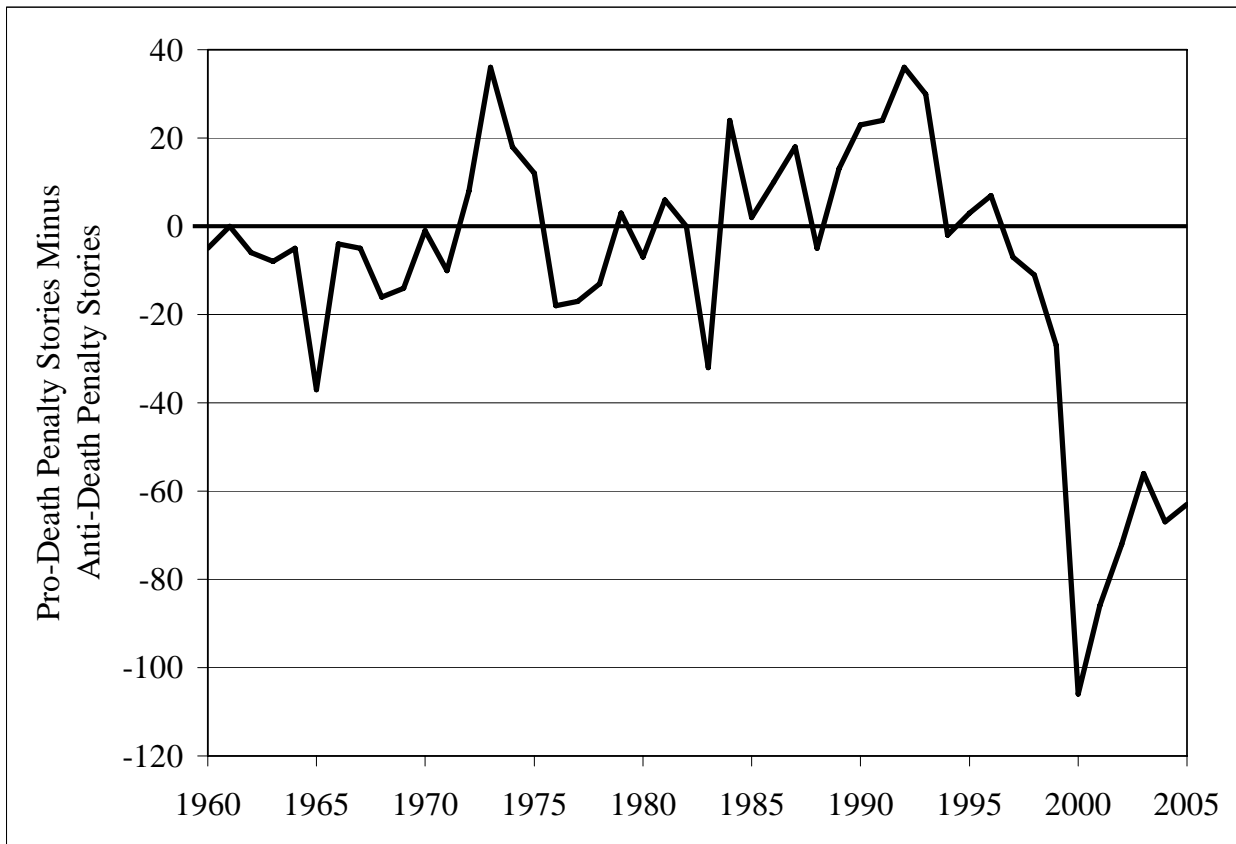


Figure 4.5. Topics of Attention in the *New York Times Index*, 1960–2005.

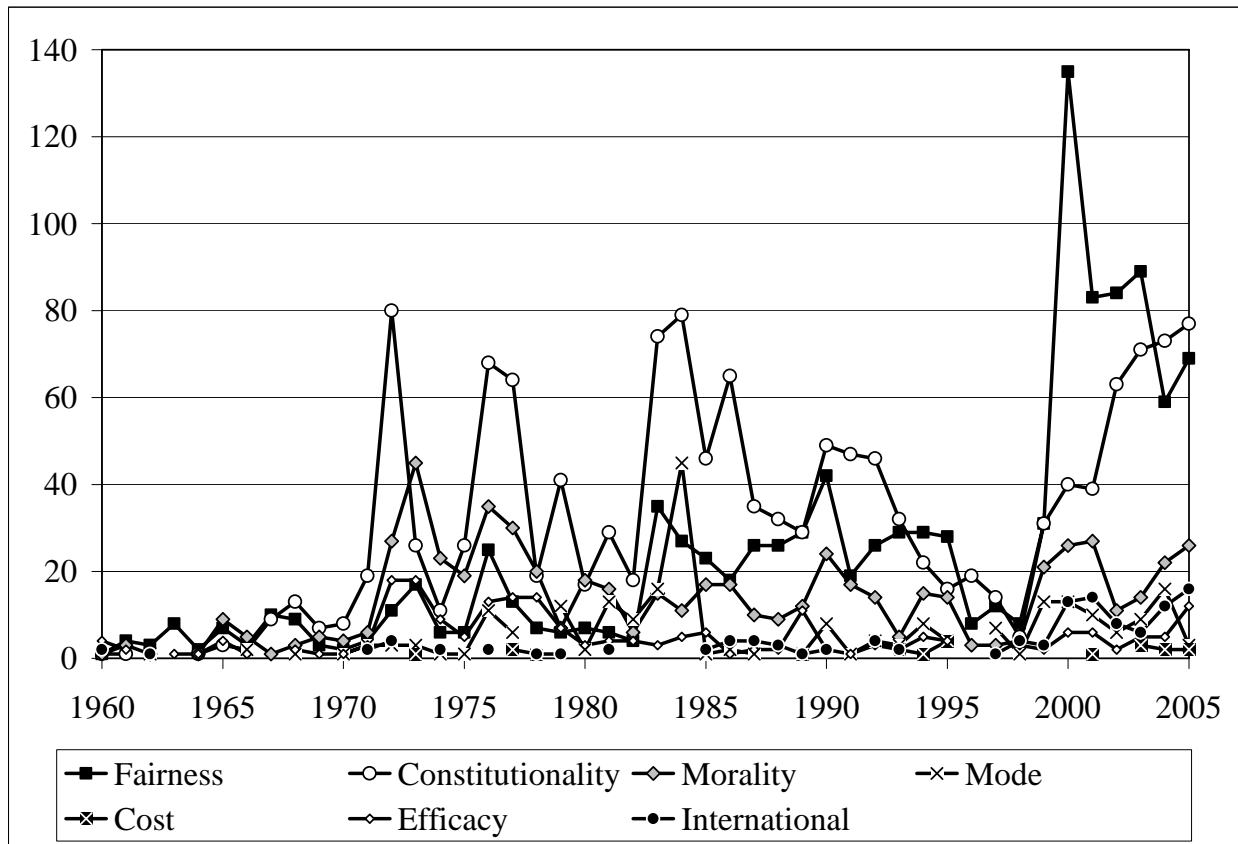


Figure 4.6. The Number of Stories Mentioning Innocence, Evidence, Flaws in the System, or Defendant Characteristics, 1960–2005.

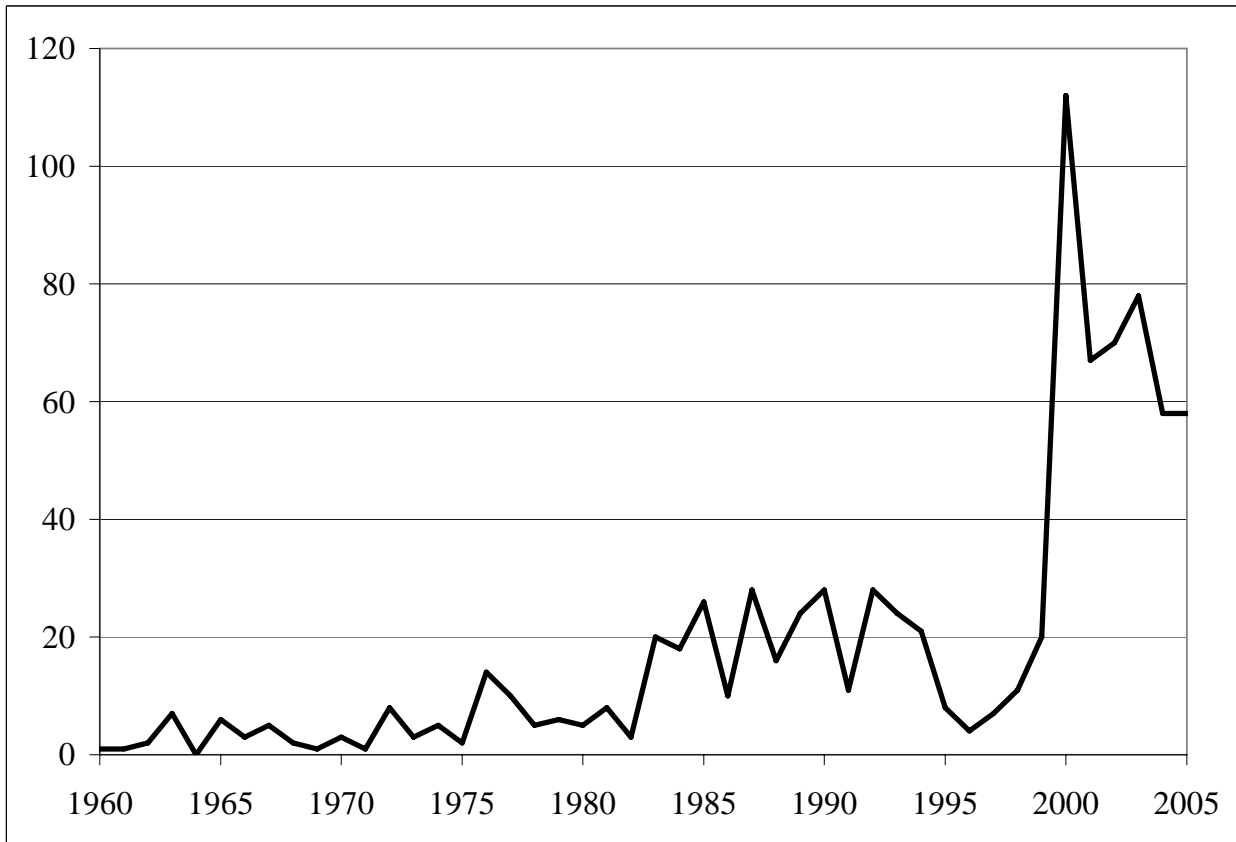
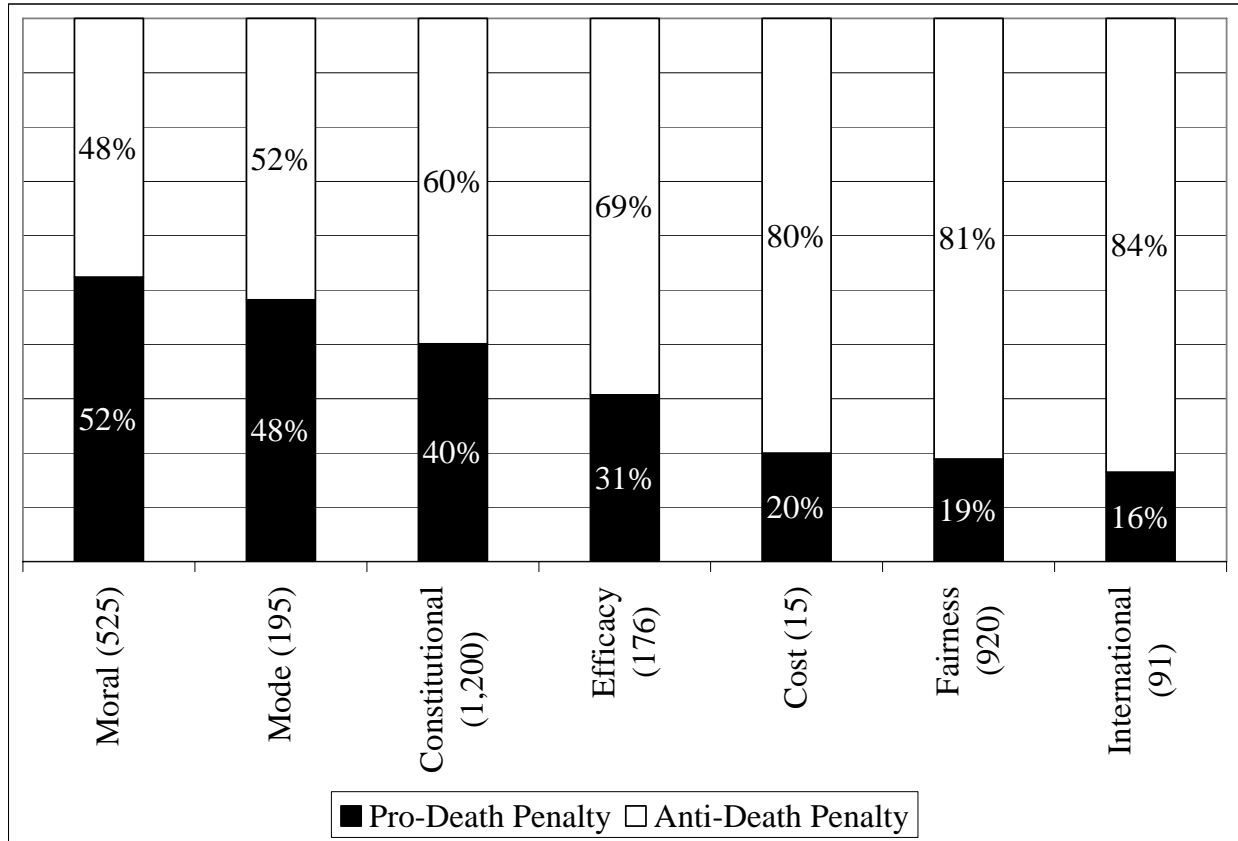
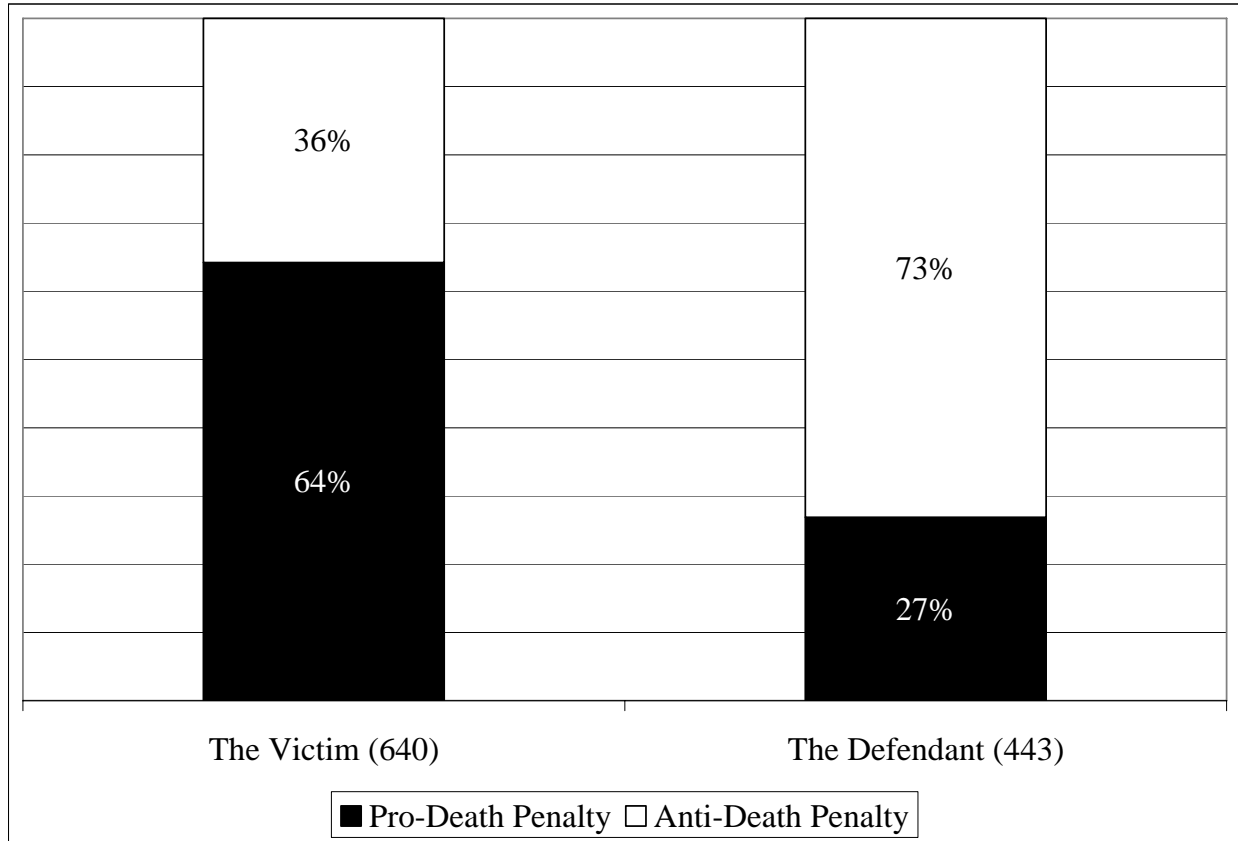


Figure 4.7. The Topic Determines the Tone.



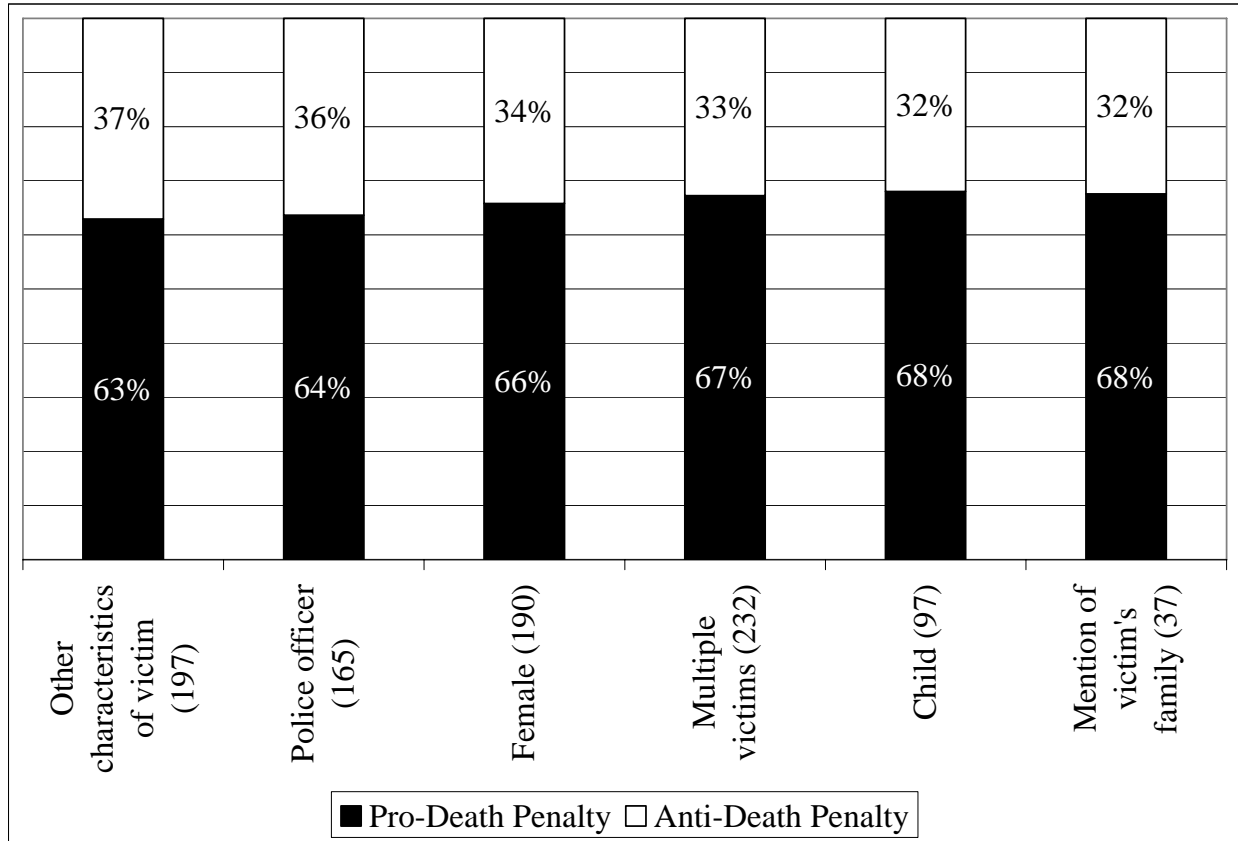
Note: The figure shows the percentage of stories on each topic that were coded pro- or anti-death penalty, 1960–2005. Number of stories (with pro or anti tone) given in parentheses. Stories that were neutral or uncodeable by tone are not included.

Figure 4.8. Tone and Mention of Victim and Defendant.



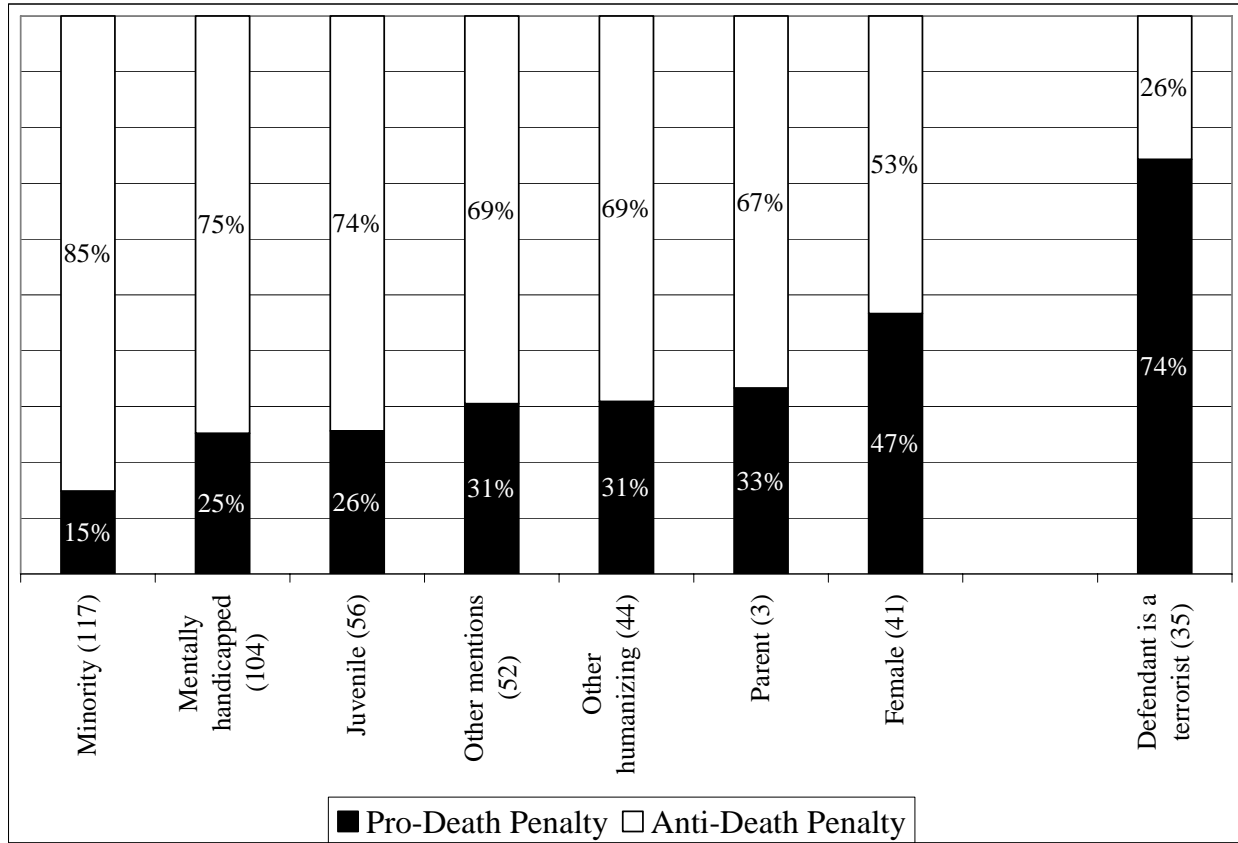
Note: The figure shows the percentage of stories mentioning either the victim or the defendant that were coded pro- or anti-death penalty, 1960–2005. Number of stories (with pro or anti tone) in parentheses. Stories that were neutral or uncodeable by tone are not included.

Figure 4.9. Tone of Coverage by Characteristics of the Victim.



Note: For every story mentioning any characteristics of the victim, the figure shows the percent that were coded pro- or anti-death penalty, 1960–2005. Number of stories (with pro or anti tone) in parentheses. Stories that were neutral or uncodeable by tone are not included.

Figure 4.10. Tone of Coverage by Characteristics of the Defendant.



Note: For every story mentioning anything about the defendant, the figure shows the percent that were coded pro- or anti-death penalty, 1960–2005. Number of stories (with pro or anti tone) in parentheses. Stories that were neutral or uncodeable by tone are not included.

Figure 4.11. The Number of Stories Mentioning the Victim and the Defendant, 1960–2005.

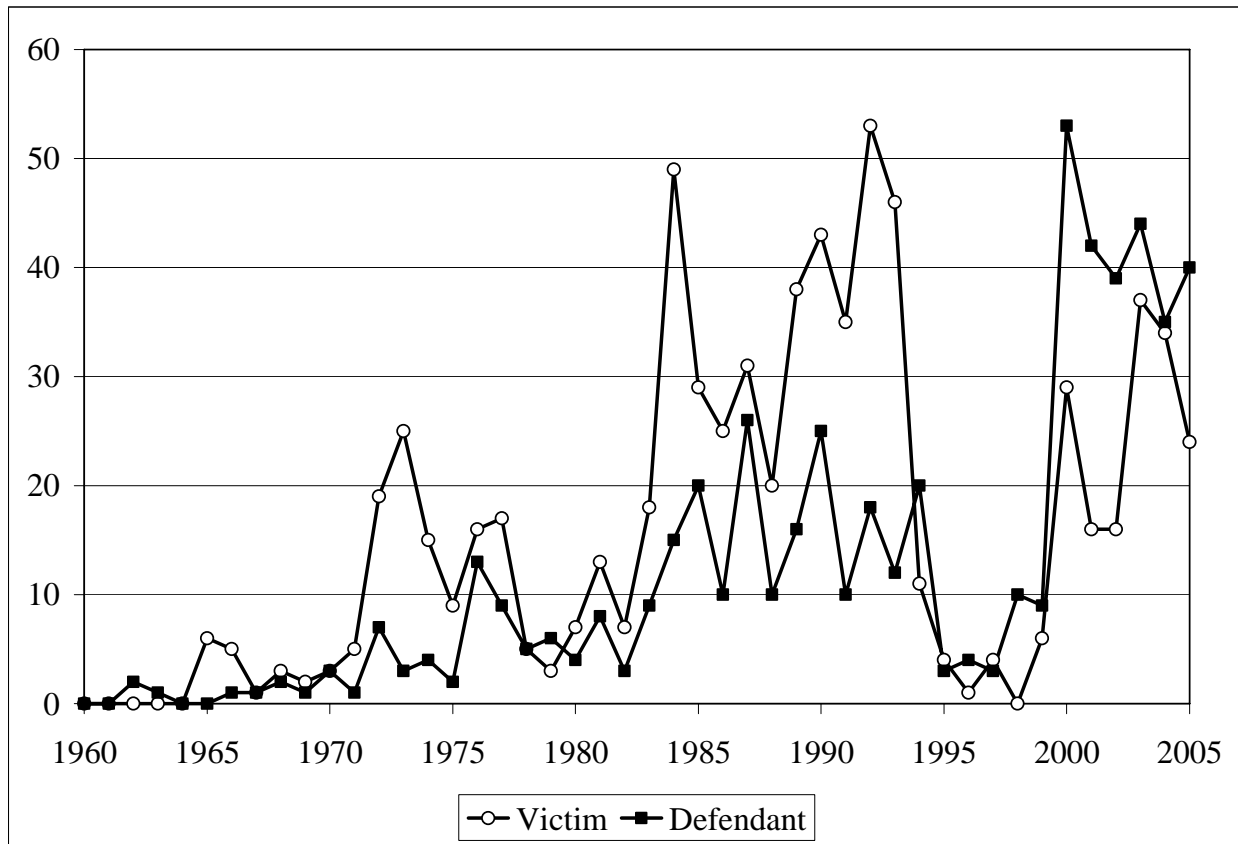


Figure 4.12. The Net Attention to Victims and Defendants, 1960–2005.

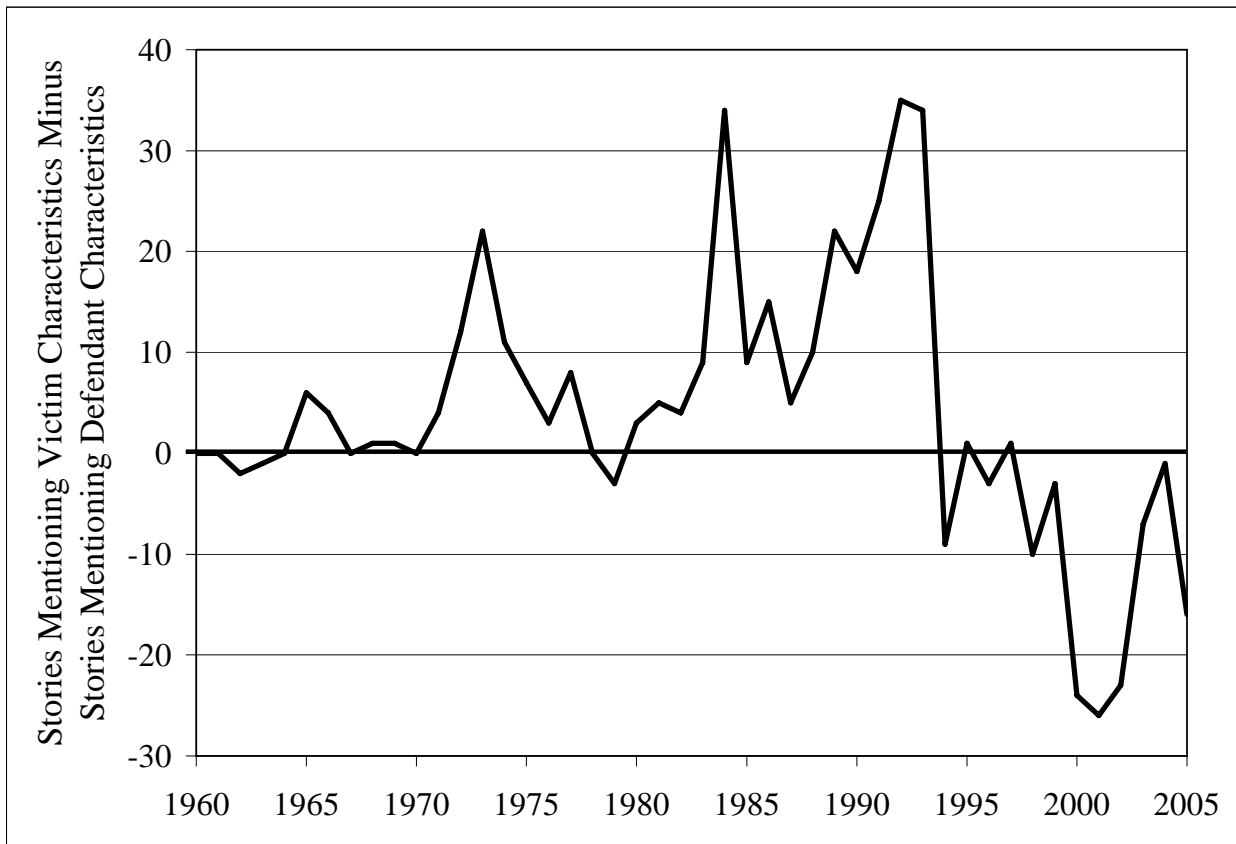


Figure 4.13. The Number of Stories on Capital Punishment in the *Readers' Guide*, 1960–2005.

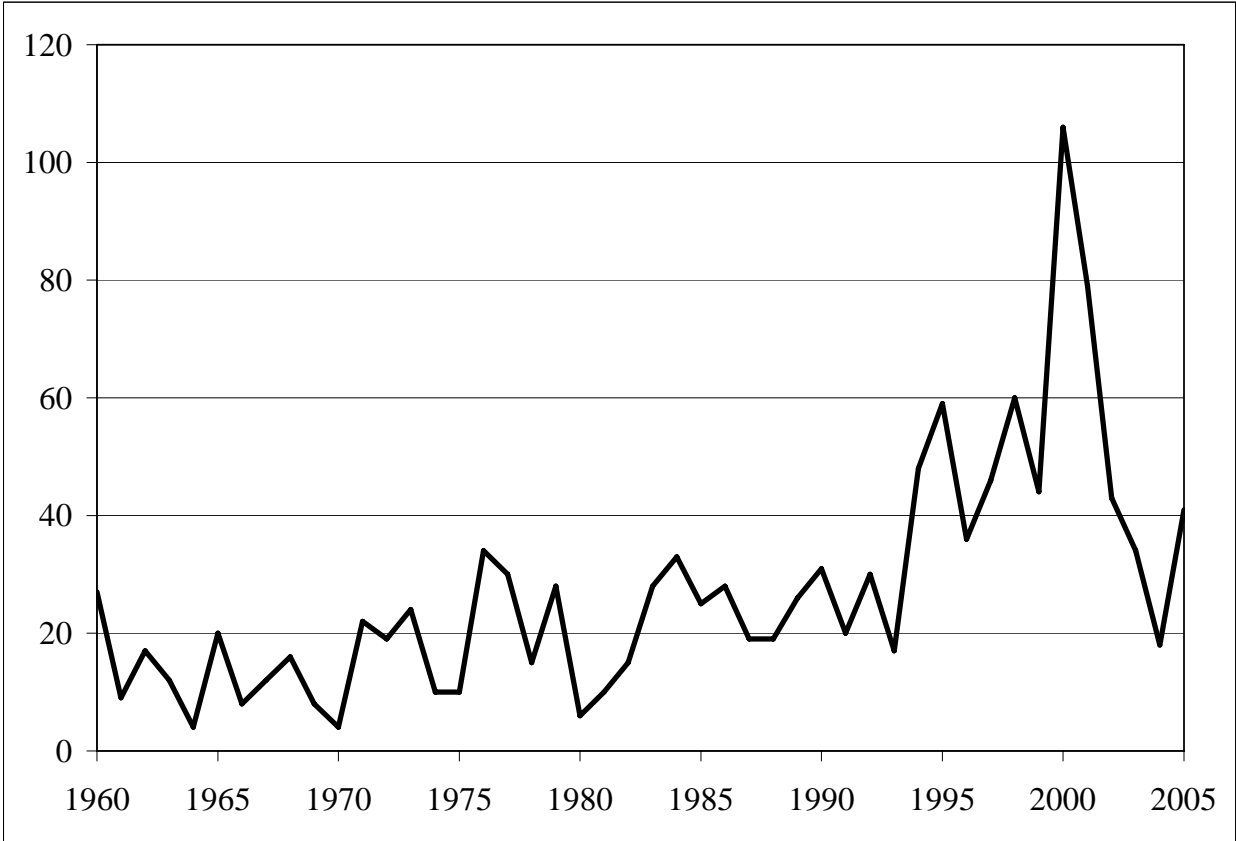


Figure 4.14. The Net Tone of *Readers' Guide* Coverage, 1960–2005.

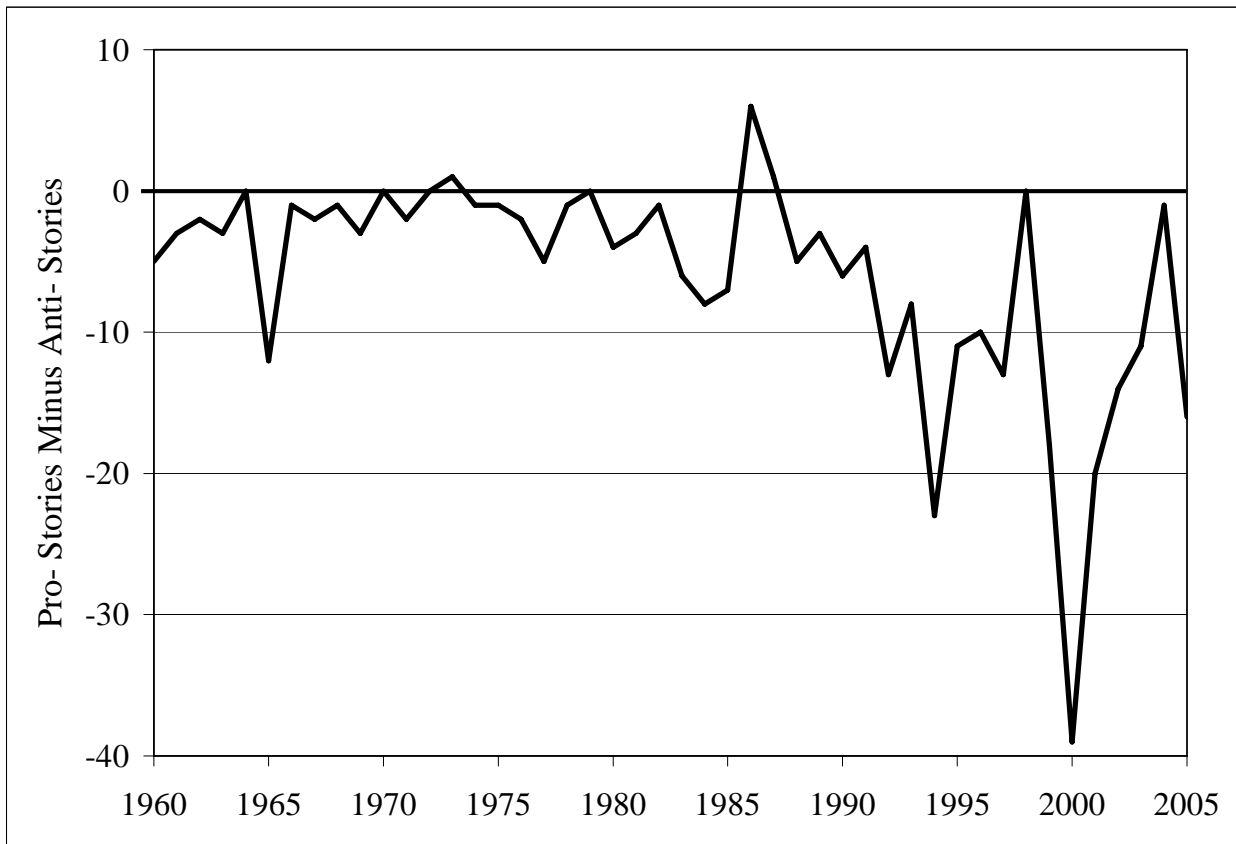


Figure 4.15. *New York Times* Attention to the Death Penalty as Compared to Other Papers, Monthly, 1980–2005.

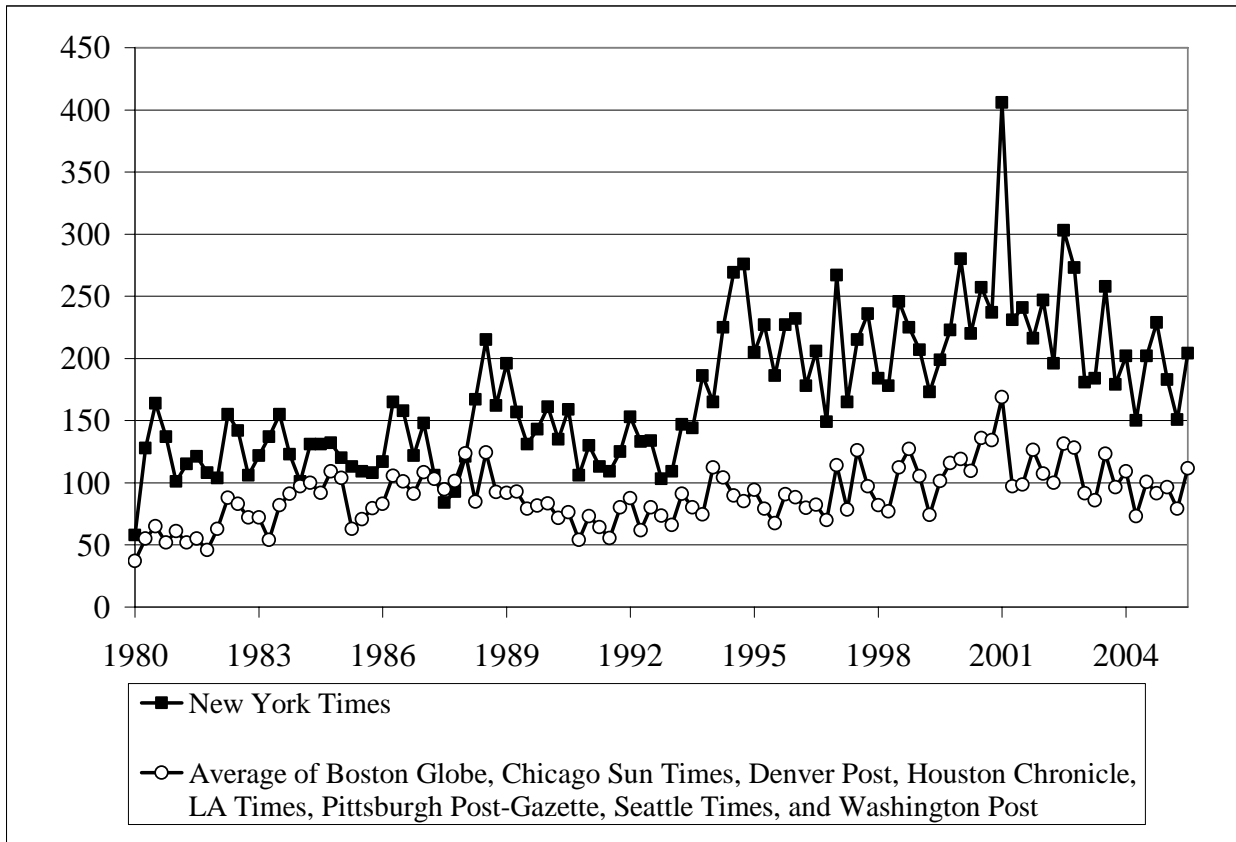


Figure 4.16. *New York Times* Attention to the Innocence Frame as Compared to Other Papers, Monthly, 1980–2005.

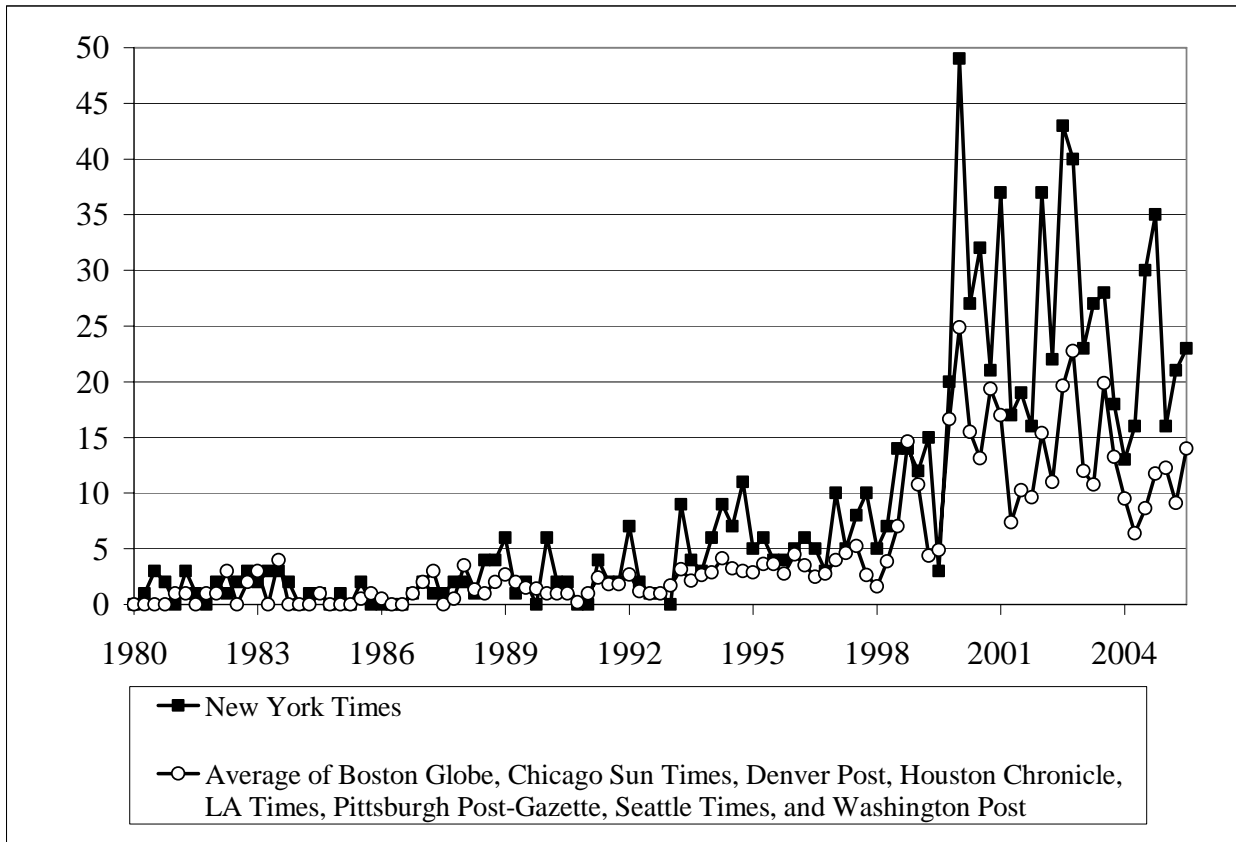
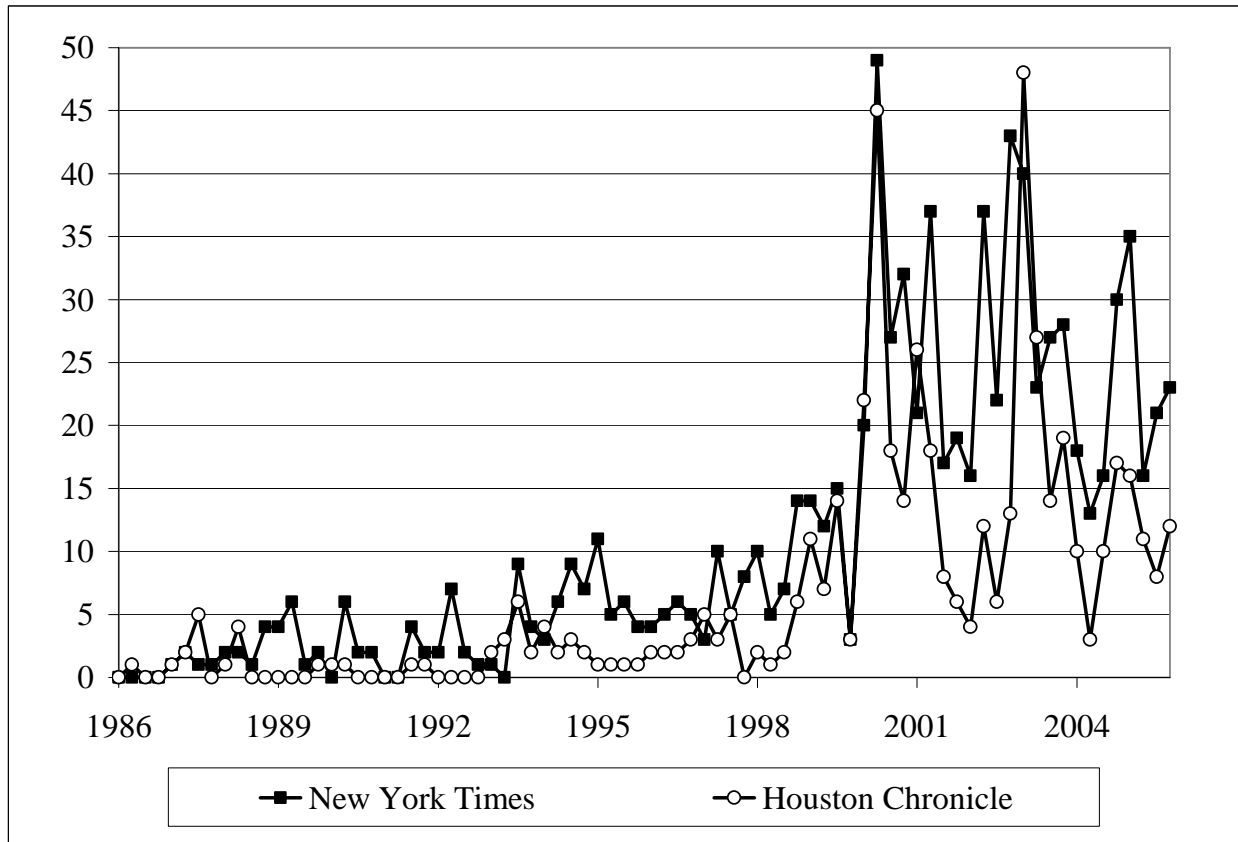


Figure 4.17. Attention to the Innocence Frame in the *New York Times* and the *Houston Chronicle*, Monthly, 1986–2005.



ⁱ Thanks to Cheryl Feeley for doing the bulk of this work for her Senior Thesis and for allowing us to use and update the data she collected.

ⁱⁱ Appendix A displays the full codebook containing a description of the coding procedures, a complete list of the dimensions and arguments used, and coding examples. Inter-coder reliability was estimated at approximately 98 percent at the first level of coding (seven main categories plus one “other” category) and 92 percent at the second level of coding (65 distinct arguments).

ⁱⁱⁱ Some articles mentioned *both* the victim and the defendant, and these are included in both totals above. If we limit ourselves to the 308 stories with tone that mentioned the defendant but had no mention of the victim, only 22 percent had a pro-death penalty tone. Looking only at the

505 stories with tone that mentioned the victim without mentioning the defendant, 71 percent of these were pro-death penalty in tone.

^{iv} Specifically, in order to capture all relevant articles we searched for stories containing reference to the death penalty, capital punishment, and/or death row.

^v For nine of these ten newspapers, Lexis Nexis offers data for the last fifteen years or so, beginning in most cases around 1990 and running consistently through 2005, when our data collection finished. However, for one newspaper—the *Miami Herald*—the data series begins and ends approximately five years earlier; stories are archived from 1980 through 1999. From 1980 through 1999 the *Herald* contains far fewer stories about the death penalty than its peer papers present from 1990 through 2005; it has less than half as many as the next *Denver Post*, which in fact is only archived in Lexis Nexis for eleven years, from 1994 through 2005. Presumably, this discrepancy in total counts is due to the major events that occurred in the death penalty debate between 2000 and 2005. Because our primary aim is to test whether other national papers gave the same level of treatment to the innocence frame in these most recent years, we exclude the *Herald* from our analysis. But it makes little difference.

^{vi} The number of articles listed annually for this Lexis-Nexis search of the *Times* is substantially higher than what we report throughout the earlier sections of this chapter and in particular in Figure 4.1. This is because the electronic search is not limited only to those articles for which the death penalty was the predominant theme of the article, as is the case in using the printed indices, as we have done. The trends are similar, of course. As there are no printed indices for most of the other newspapers, however, for comparability we used the electronic search in each case so the numbers in Figure 4.15 are comparable.

^{vii} We used standard principal-components factor analysis and then adjusted the results through orthogonal varimax rotation.

^{viii} Center for Media and Public Affairs Press Release, “Networks Set Pace for Green Mile: By June 2000, Death Penalty Coverage Exceeds All Years in Past Decade,” June 29, 2000.