



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

CAPITAL PUNISHMENT

Death penalty no deterrent for cop killers

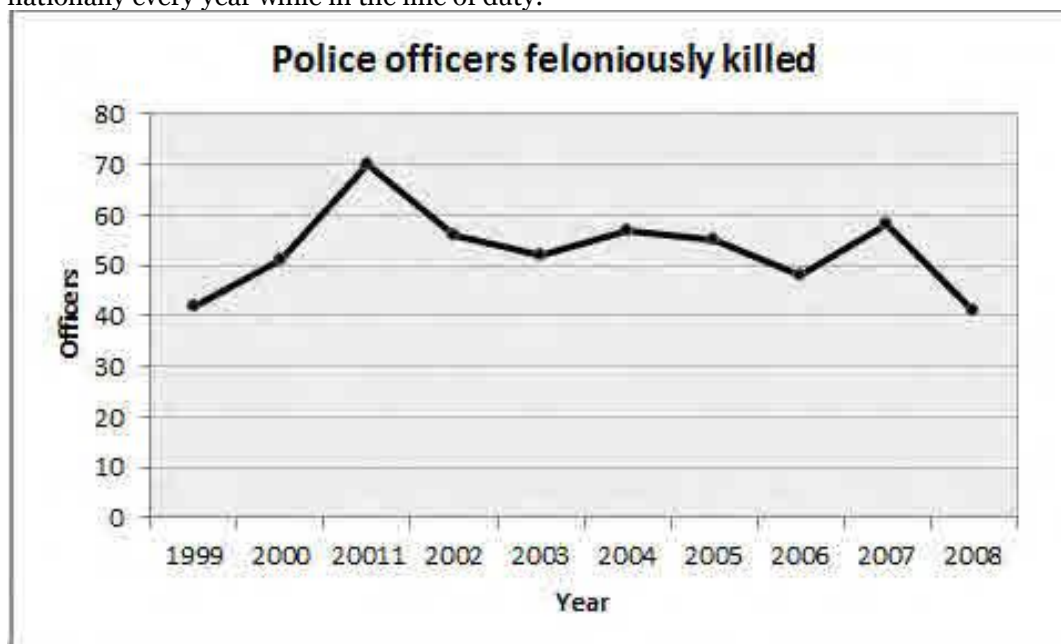
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In the hotly-contested gubernatorial race in California, a state where executions are legal yet so infrequent that the backlog of cases exceeds 700, the death penalty has surfaced as an issue dividing the candidates. In a new television ad, Republican Meg Whitman criticizes her Democratic opponent for his stance on the issue:

"Jerry Brown opposes the death penalty," a police sergeant says in the 15-second message, after which another officer responds, "Even for cop killers."

Not only is the claim that Brown is soft on crime, but apparently he's not willing to protect the men and women in blue who put their lives on the line every day to protect the rest of us from harm.

No one, regardless of position on capital punishment, would argue against the idea of shielding the police from armed assailants. As shown in the figure below, dozens of law enforcement officers are murdered nationally every year while in the line of duty.



There is, however, an inherent inconsistency to the proposition that threatening would-be cop killers with the penalty of death might actually make them think twice about taking aim at the police. Weighing the risks and rewards, some criminals deliberately choose to kill a police officer rather than to be taken into custody. Although despicable, the act is designed to avoid punishment altogether, be it capital or of lesser variety.

A long tradition of research on the deterrence process indicates that what discourages people from wrongdoing is not the severity of punishment, but its perceived likelihood. By killing a police officer, a criminal seeks to reduce the chance of punishment any punishment. Criminals who believe that they can avoid apprehension by killing a police officer will not be deterred by whatever penalty is on the books.

Several years ago, Governor William Weld argued that our state should restore capital punishment because he knew in his gut that the death penalty is a deterrent, despite his awareness of the pile of research suggesting otherwise. Of course, Weld is hardly alone in placing personal conviction over scientific evidence. Opinion polls have shown that deterrence is a leading, if not *the* leading justification endorsed by Americans in support of capital punishment.

The legions of capital punishment supporters are correct in claiming that most people, criminals included, fear death. Unlike prison, death is the great unknown. Many of us do indeed avoid certain risky behaviors for fear of dying, but we are equally deterred by other negative consequences. For example, speeding on the highway carries an inherent risk of injury or even death, yet the more likely and less severe penalty for a speeding ticket is the main concern to all those who slow down when they suspect a radar trap.

For criminals who would contemplate shooting at cops or other human targets, death may be something to avoid, but so is long-term incarceration. Those offenders who are not dissuaded from committing murder by the prospect of being locked up for life are not likely to be discouraged by the prospect of death. Thus, while the death penalty may deter in an absolute sense (even murderers fear death), in a relative sense it is no more of a deterrent than the life imprisonment alternative. Those who act with deliberation, planning, and premeditation view their risk of apprehension as being so low that the potential punishment is irrelevant.

Despite the lack of deterrent value, many proponents have as their fall-back position that the death penalty is simply the deserved sanction for cop killers. But, in this regard, are we really willing to place a greater premium on the life of a police officer over that of other public servants, including firemen or even teachers? If you buy the eye for an eye slogan, then it shouldn't make a difference when the eyes are blue.

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This is one of a series on various aspects of the death penalty. Links to previous columns:

- [Death penalty - Still racist after all these years](#)
- [Death penalty kills the budget](#)

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