



Maryland's Death Penalty **Fair and Equal Under the Law?**

Since 1978, less than 1% of Maryland's 13,000+ murders resulted in a death sentence. But are those individuals truly Maryland's "worst of the worst" — or simply those with the worst lawyers, the wrong skin color, or the wrong geographic location?

Three decades after the United States Supreme Court approved sentencing guidelines designed to reduce arbitrariness, the death penalty is still unpredictably applied to a small number of defendants. Some of the most heinous murders result in life sentences, while less heinous crimes are punished by death. Meanwhile, race, geography, poverty, and other factors continue to determine who lives and who dies.

A Lottery of Geography

- Most **MARYLAND** counties never seek the death penalty.
- Baltimore County accounts for the vast majority of state capital prosecutions. The county is over 13 times more likely to seek the death penalty in an eligible case than is Baltimore City, and more than five times more likely than Montgomery County. Yet Baltimore County is home to only six percent of **MARYLAND**'s homicides.
- During her three decades in office, Baltimore County State's Attorney Sandra O'Connor proportionally sought more death sentences than almost any other local prosecutor in the United States.

"...there is little or no rationality underlying the actual imposition of the death penalty in Maryland, and that penalty disproportionately falls on poor African American males."

— CHIEF JUDGE ROBERT M. BELL AND
JUDGE JOHN C. ELDRIDGE,
MARYLAND COURT OF APPEALS

The Troubling Role of Race

- Across the country and here in **MARYLAND**, the race of the victim has a profound effect on which crimes receive the death penalty.
- Blacks charged with killing a white victim in **MARYLAND** are two and a half times more likely to receive a death sentence than whites who kill whites, and three and a half times more likely than blacks who kill blacks.
- Every person executed or currently on death row in **MARYLAND** was convicted of killing a white person, even though about 80% of homicide victims in our state are African Americans.

(over)

- When the public sees this level of disparity played out in the state's death penalty, it compromises the integrity of the entire criminal justice system, sending a message that some lives are more valuable while others are more expendable.
- Race impacts death sentencing at every stage of the process, often in ways that are hidden or unintentional. Cross-racial eyewitness identification, for example, is much less reliable than eyewitness identification from within the same race or ethnicity. White jurors are less receptive to mitigating evidence like a past history of abuse when the defendant is black — even though such jurors are not overtly racist.

Justice For A Few — Poor Defendants Dealt Incompetent Lawyers

- Across the country, over 90% of those facing capital charges were too poor to afford their own attorneys. Everyone currently on **MARYLAND**'s death row was too poor to hire their own attorney and thus relied on a publicly compensated attorney to represent them.
- A 2002 Columbia University study found that one of the most common problems plaguing the death penalty was “egregiously incompetent” defense lawyers.
- While **MARYLAND**'s public defender system is better than many states, it is not good enough to be trusted with the ultimate penalty. In June 2003, the U.S. Supreme Court overturned the death sentence of **MARYLAND** prisoner Kevin Wiggins due to ineffective assistance of counsel — a very rare determination to come from our nation's highest court.
- Capital defense is significantly more time-consuming and complicated than any other criminal defense work, requiring highly trained and experienced lawyers receiving adequate compensation for hundreds of hours of work. **MARYLAND**'s compensation rates are far below federal and other recommended rates for contracted attorneys in capital cases.

“When a criminal defendant is forced to pay with his life for his lawyer’s errors, the effectiveness of the criminal justice system as a whole is compromised.”

— WILLIAM SESSIONS,
FORMER FBI DIRECTOR UNDER
PRESIDENT RONALD REAGAN

Broad and arbitrary

- Individual prosecutors have total discretion to seek the death penalty or not in a death-eligible case. Indeed, prosecutorial discretion is one of the hallmarks of our nation's criminal justice system. That discretion, however, is also part of what makes the system human and therefore fallible. While all murder is horrible, death is supposed to apply to only the most egregious murders — a distinction any human system is ill-suited to make.
- For three decades, Baltimore County's policy was to seek death whenever the law allowed, rather than using prosecutorial discretion to single out the “worst of the worst.” Yet study after study has found that states increase the risk of wrongful convictions and unfairness when the death penalty is aggressively sought and broadly applied. The Baltimore County case of Kirk Bloodsworth is the human face of such research — he was sentenced to die for the rape and murder of 9-year-old Dawn Hamilton and spent nearly a decade behind bars before DNA testing exonerated him.