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Is public opinion in the U.S. in favor of the death penalty?

Abstract: Public opinion on the death penalty in the United States is often assessed through surveys that present overly simplistic questions, such as a binary "yes or no" on whether one supports capital punishment. However, surveys that provide an alternative, such as life imprisonment without the possibility of parole (LWOP), offer a far more nuanced and accurate reflection of public sentiment. These more detailed questions reveal a trend away from the death penalty in the U.S., and highlight a growing preference for life imprisonment over executions. Last time Gallup asked the question with alternative (in 2019), 60% of the respondents favored life imprisonment and only 36% preferred the death penalty.

Keywords: death penalty, capital punishment, life imprisonment, surveys, polls, public opinion, murder, convictions, executions

The simple binary question versus the question with alternatives

Measurements of public support for death penalty vary depending on how the main question is framed in the survey. Whether respondents are presented with a simple yes/no choice or given alternative punishments, significantly influences response patterns.

Gallup, is one of the few polling organizations to ask both types of questions. It provides two key formats when measuring public opinion on the death penalty for those convicted of murder:

1. A simple binary question, where respondents must choose either “in favor” of the death penalty or "not in favor" (a yes/no type of question).

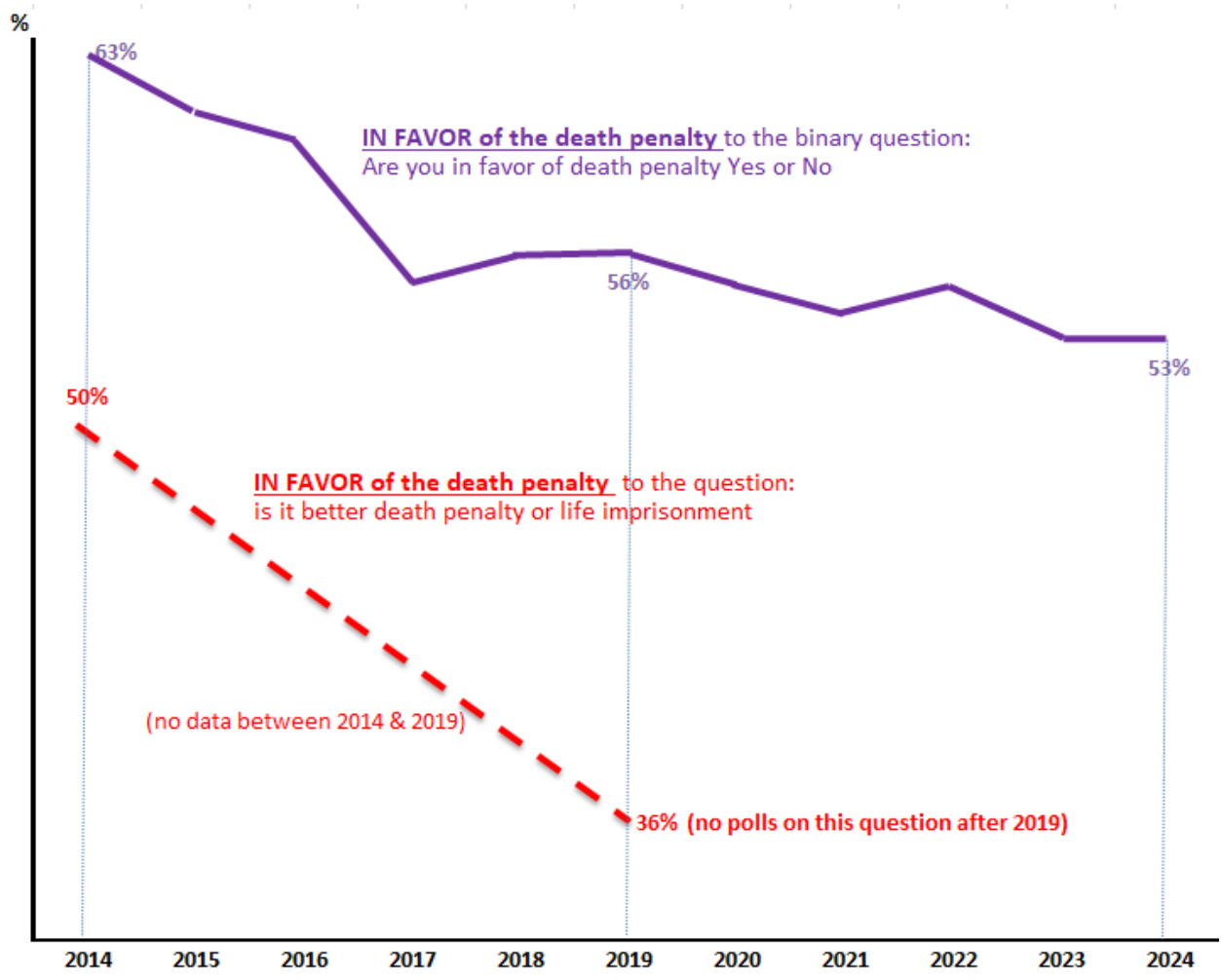
2. A question that includes an alternative, allowing respondents to choose between the death penalty or life imprisonment without the possibility of parole (LWOP).

The demographic breakdowns of responses by age, gender, education level, and party affiliation are all similarly affected by how participants answered the above primary questions.

The data collected from Gallup's binary question reveals a steady decline in support for the death penalty over the past three decades. Support dropped from 80% in 1994 to 56% in 2019 and reached 53% in 2023 and 2024 [1].

However, when respondents are given the alternative of LWOP, support for the death penalty is much lower. Between 2014 and 2019, favorability for the death penalty in this format declined from 50% to 36% [2]. No newer data has been collected for this alternative question.

Since Gallup first included the LWOP option in its polls in 1985, support for the death penalty has consistently been higher when respondents are asked the simple binary question. The difference between the two formats in a given year, ranges from 13% to 23%, with the gap varying from year to year. A graph of Gallup's results since 2014 illustrates this trend.



[1] https://news.gallup.com/poll/1606/death-penalty.aspx first table
[2] https://news.gallup.com/poll/1606/death-penalty.aspx fifth table

Why the simple binary question is misleading

The stark contrast in responses between the two question formats raises an important issue: which method more accurately reflects public opinion?

Simple, binary questions (like the typical "yes/no" format or “in favor/not in favor”, which is equivalent) compel respondents to choose between options that may not fully capture their nuanced views. While these questions are straightforward, their simplicity limits their ability to provide meaningful insights. As noted in *Survey Methods* [3], dichotomous questions like "yes/no" often fail to allow for a deeper analysis of public sentiment.

When no clear alternative to the death penalty is provided, respondents may be swayed by concerns that a "no" answer might result in a sort of impunity or lenient punishment, skewing the results toward support for the death penalty.

The US Department of Justice has noted that: “*public opinion polls that simply ask people whether or not they favor capital punishment are ineffective measures of public opinion.*“ [4]

The US Death Penalty Information Center, referring to the responses to the simple binary question, emphasizes that they might reflect the public’s philosophical or moral stance on the issue, but they do not measure opinion about the death penalty as it is actually practiced which requires such information as the availability of alternative sentences, the risks of mistake and bias, and the costs associated with the practice [5].

In an article published in 1989 [6], Hans Zeisel and Alec Gallup, stressed that “*Death penalty sentiments are not of uniform strength: about one-third of the pro-death penalty population might give up their position if the alternative were life without parole and if they were convinced that the death penalty is not a deterren*t”.

The prevalence of the simple binary question

Despite its limitations, the simple yes/no format is the most commonly used in public opinion surveys on the death penalty. Between 1985 and 2024, Gallup conducted 39 polls using the binary question, but only 11 included a question with the LWOP alternative. 2019 was the last

[3] Why to Avoid Dichotomous Questions - SurveyMethods
[4] https://ojp.gov/ncjrs/virtual-library/abstracts/public-opinion-and-capital-punishment-close-examination-views#:~:text=Results%20of%20the%20survey%20indicate,and%2010.4%20percent%20were%20undecided.
[5] Public Opinion | Death Penalty Information Center
[6] Death Penalty Sentiment in the United States on JSTOR

year the question with LWOP alternative was treated, while the simple binary question has continued to be asked annually. Furthermore, on Gallup's website (https://news.gallup.com/poll/1606/death-penalty.aspx), the results of the simple binary question are prominently displayed at the top, while the results of the question with an alternative are buried further down the page and without an accompanying graphic.

Gallup stands out as one of the few pollsters that occasionally incorporates the alternative question into its surveys, though this occurs much less frequently compared to the traditional binary format. Most polling organizations rely exclusively on the simplified binary approach, which limits the depth of insights into public attitudes, to put it mildly.

The importance of accurate polling

Public opinion plays an important role in shaping criminal justice laws, policies, and political strategies, including decisions on whether to retain or abolish capital punishment. It is therefore essential that polling on this issue captures the complexity of public attitudes. Simplistic yes/no questions can oversimplify and misrepresent the nuances of public sentiment, potentially misleading policymakers in understanding the true perspectives on the death penalty.

The sharp contrast between concluding that 52% of Americans favored the death penalty (based on a binary question in 2019) and stating that only 36% supported it when given an alternative option that same year vividly illustrates how the wording of survey questions can significantly influence the results and shape the interpretations made by citizens, the media, and politicians.

Why is public support for the death penalty declining?

Factors that have contributed to the decline on public support for the death penalty include:

1. A growing awareness of the risk of executing innocent people
2. Increased recognition of racial bias in the death penalty
3. The decline in public belief in deterrence
4. The bipartisan involvement on condemning the death penalty
5. The decline in the use of death penalty in the U.S.
6. The influence of the global trend towards the abolition of the death penalty

1. The growing awareness of the risk of executing innocent people

Contributing to this trend away from the death penalty is a growing awareness of the risk of executing innocent people and the number of wrongful death sentences, overturned years

later, sometimes decades later, during which people falsely accused, suffer on the death row under the menace of being killed.

Over the past 50 years, 200 prisoners[7] in the United States have been exonerated and released from death row due to wrongful convictions, averaging four exonerations per year.

"The wrongful convictions of these 200 people are the result of mistakes, misconduct, and the political ambitions of government officials that the American public should no longer tolerate" [8]said Robin Maher, executive director of the Death Penalty Information Center.

Larry Roberts[9] was the 200th prisoner to be exonerated by a US court on 1 July 2024, after languishing for 41 years on death row waiting to be killed by the state for a crime he did not commit.

A 2021 report [10] documented that 69% of death row exonerations are the result of death sentences involving official misconduct by police, prosecutors, or other government officials. Eyewitness misidentification, faulty forensics, false confessions, and inadequate defense are among other legal challenges that lead to wrongful death convictions.

Besides the 200 exonerated, some sentenced to death have been found innocent too late. After they had already been executed. These cases are less well known because investigations usually stop after the execution. Carlos DeLuna [11] is one the 20 cases listed by DPIC[12]. He was executed in 1989 for the stabbing to death of a Texas convenience store clerk. Evidence uncovered years later showed that another man, Carlos Hernandez, who had even confessed to the murder, had actually committed the crime.

Notwithstanding the well-known enormous amount of judicial errors at all levels, the few US states that still use the death penalty continue to execute people even when there are serious doubts about the charges. A recent case is Marcellus Williams[13], who was executed in Mississippi in October 2024, despite serious claims of innocence not only by his defense team, but later by the prosecutors themselves. Forensic evidence was destroyed or contaminated by the prosecutor. Available DNA and other forensic evidence from the crime scene did not match Williams. In the end, Williams was sent to death on the basis of two unreliable witnesses who had incentives to testify falsely against him, including leniency in their own criminal cases and a $10,000 reward. Some politicians pretend to be tough on crime by speeding up and increasing

[7] Number of exonerees as of 31 October 2024
[8] Exoneration Milestone a 'Sobering Reminder' of Problems With Death Penalty - The Tablet
[9] Larry Roberts - National Registry of Exonerations (umich.edu)
[10] DPIC Special Report: The Innocence Epidemic | Death Penalty Information Center
[11] https://www.theguardian.com/world/2012/may/15/carlos-texas-innocent-man-death
[12] https://deathpenaltyinfo.org/policy-issues/innocence/executed-but-possibly-innocent
[13] https://innocenceproject.org/cases/marcellus-williams/

the number of executions, despite the certainty that a system riddled with error also kills innocent people. Undoubtedly, populist political goals can trump justice.

2. Increased recognition of racial bias in the death penalty

The death penalty is viewed as racist because it is disproportionately applied to people of color as demonstrated in the Baldus Study [14], which is a comprehensive empirical analysis of 2,484 homicide cases in Georgia. The study revealed that black defendants convicted of killing white victims were more likely to be sentenced to death than any other racial combination of defendant and victim, even when the crimes are similar. These conclusions are confirmed in numerous other studies [15].

Racial discrimination also exists in the jury selection process [16], further distorting the fairness of death penalty cases. Black jurors are frequently excluded from juries in capital cases involving white victims.

The historical context of the death penalty reveals its racialized roots[17]. The system of capital punishment in the U.S. has long been intertwined with racial violence, particularly during periods of slavery and segregation. Historically, Black people were disproportionately targeted for execution, often without due process, and in ways that reflected racist notions of Black inferiority. This legacy continues to shape modern perceptions of the death penalty and contributes to its unequal application. Thus, racial disparities in the death penalty are not just a reflection of present-day biases but also of a history steeped in racial inequality and injustice.

3. Growing awareness that the death penalty disproportionately impacts the poor

The death penalty disproportionately impacts the poor because of the intersection of limited legal resources, systemic biases, and socio-economic factors. Those who cannot afford adequate legal defense or expert witnesses are more likely to be sentenced to death, even in cases where wealthier individuals may have been able to avoid such a fate. Below are indicated some factors that have contributed to increasing recognition of this issue in the US.

Advocacy by Organizations**:** the Innocence Project**,** Equal Justice Initiative (EJI)**,** and the Death Penalty Information Center (DPIC)**,** to cite but a few, have highlighted the role of poverty in capital cases. They expose the systemic inequities in the criminal justice system and the ways in which poverty intersects with race and legal defense. Their work has been instrumental in raising public awareness about how poor defendants are more likely to face the death penalty due to inadequate legal representation and lack of resources.

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[14] David Baldus and the Legacy of McCleskey v. Kemp ;
[15] Race | Death Penalty Information Center
[16] Race and the Jury
[17] Peculiar Institution: America's Death Penalty in an Age of Abolition on JSTOR

Public education campaigns around the death penalty, often focus on its unfair application. These campaigns highlight the fact that those who cannot afford competent legal counsel are at a higher risk of being sentenced to death. Documentaries, books, and news reports have further brought the issue to light, particularly focusing on the unequal outcomes for poor defendants in capital cases.

Legal and Academic Research: Studies, such as those by the Baldus Study and the American Bar Association[18], have demonstrated that the death penalty disproportionately affects the poor. Their findings have been widely cited in legal and academic circles, and they have influenced public discussions about the fairness of the death penalty.

High-Profile Cases: Media coverage of cases where poor defendants have been sentenced to death without adequate legal counsel has helped bring this issue into the public consciousness. For example, cases like Troy Davis[19] and Leonard Peltier have garnered attention because of concerns about the fairness of their trials and the lack of resources for their defense. These cases have drawn attention to the disparities faced by poor people when charged with capital offenses.

Troy Davis case: The case was extensively covered by national and international media, highlighting how Davis, a poor defendant, lacked the means to mount a robust defense. Journalists, celebrities, and advocacy groups rallied to his cause, drawing attention to the possible flaws in the trial and the impact of poverty on his case.

4. The public knowledge of the high cost of death penalty

A further persuasive evidence that influences public opinion is the cost disadvantage of the death penalty in the USA compared to life imprisonment. The legal process is much longer. "Capital cases require more lawyers, more witnesses, more experts, a longer jury selection process, more pre-trial motions, an entirely separate trial for sentencing, and countless other expenses," summarises Equal Justice USA[20]. Then there are the costs, in some cases, of lawsuits against states for 'botched' executions. According to a 2016 study by Susquehanna University, each death row inmate costs about $1.12 million more than an inmate in the general population [21]. A similar conclusion has been reached by other studies, such as a 2013 study published by the University of Denver Criminal Law Review, which examined aggravated murder prosecutions between 2005 and 2010 in Colorado [22].

The economic inefficiency of capital punishment, especially in an era of fiscal austerity is increasingly recognized as a significant factor in the broader debate over the future of the death penalty in the US.

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[18] Criminal Justice Debt Problems

[19] Troy Davis and the Quest for Justice - Harvard Law School | Harvard Law School

[20] Fact check: Is the death penalty more expensive than life in prison? - Ballotpedia

[21] The Death Penalty vs. Life Incarceration: A Financial Analysis (researchgate.net)

[22] https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1020&context=crimlawrev

The Death Penalty Information Center**,** the Innocence Project**,** and the National Coalition to Abolish the Death Penalty have consistently highlighted the economic burden of the death penalty. Through reports, media campaigns, and public advocacy, these groups raise awareness of how these financial costs divert resources away from more effective public safety measures, such as crime prevention, education, and rehabilitation programs.

5. Decline in public belief in deterrence

According to Gallup polls, the percentage of Americans who believe in the deterrent effect of the death penalty on future crime is very low, falling from 13% in 1991 to 6% in 2015 (the last time the question was asked). Back in 2012, the prestigious National Research Council for the National Academies concluded that "research to date on the effect of capital punishment on homicide is not informative about whether capital punishment decreases, increases, or has no effect on homicide rates"[23].

6. Abolishing the death penalty is a bipartisan endeavor

The decline in public support and in the use of the death penalty in the US is also the result of the efforts of a vibrant civil society with a bi partisan political support of many Democrats and an increasing number of Republicans. In 2013, a network called "*Conservatives Concerned About the Death Penalty*"[24] was set up to raise concerns about capital punishment in media and other fora. The network released a major report in October 2017, titled "*The Right Way*"[25], which highlighted that the death penalty is "*plagued by wrongful convictions, high costs, and delays*" and that "*the death penalty has proven to be ineffective and inconsistent with a number of core conservative principles*" and "*runs counter to conservative commitments to limited government, fiscal responsibility, and a culture of life.*" According to the report, dozens of Republican lawmakers accounted for about a third of all sponsors of death penalty repeal bills in state legislatures in 2016 and 2017. The report concludes that "*The death penalty is dying in the United States, and Republicans are contributing to its demise. A surge of Republican lawmakers have sponsored death penalty repeal bills since 2013, symbolizing a shift in conservative attitudes that extends far beyond the statehouse. Lawmaker activity is a reflection of this growing trend. The death penalty's egregious flaws – the risk of executing an innocent person, arbitrariness and bias, high costs, a lack of deterrence, and the impact on victims' families – make it impossible to square this policy with conservative values. Conservatives from the grassroots to statehouses are taking note and leading the way towards better policies that don't include executions*".

7. The decline in the use of death penalty in the U.S.

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[23] Deterrence and the Death Penalty | The National Academies Press
[24] Conservatives Concerned About the Death Penalty
[25] The-Right-Way-Online.pdf (conservativesconcerned.org)

This shift in public opinion in the US is in line with the history of a progressive decline in the use of this punishment in the country, particularly over the last 20 years. The US has been a pioneer in abolishing the death penalty. The first three states to abolish the death penalty did so in the 19th century. In the following century, abolition accelerated from 3 to 9 states, and in the first quarter of the 21st century, 11 new states have abolished, an average of one state every two and a half years, a remarkable acceleration.

XIX Century	**XX Century**	**XXI Century**
3 States abolished	**9 States abolished**	**11 States abolished**
Michigan (1846)	Minnesota (1911)	New Jersey (2007)
Wisconsin (1853)	Alaska (1957)	New York (2007)
Maine (1887)	Hawaii (1957)	New Mexico (2009)
	Vermont (1964)	Illinois (2011)
	West Virginia (1965)	Connecticut (2012)
	Iowa (1965)	Maryland (2013)
	North Dakota (1973)	Delaware (2016)
	Massachusetts (1984)	Washington (2018)
	Rhode Island (1984)	New Hampshire (2019)
		Colorado (2020)
		Virginia (2021)

In addition to the 23 States that have already abolished the death penalty by having it removed from their Penal Code, 13 other States declared a moratorium on executions or are in a de facto moratorium (stopped executing for 10 years or more).

List of 13 States with a declared moratorium on executions or with no executions for 10 years or more

	State	status
1	Kansas	Last execution in 1965
2	Wyoming	Last execution in 1992
3	Montana	Last execution in 2006
4	Nevada	Last execution in 2006
5	North Carolina	Last execution in 2006
6	Kentucky	Last execution in 2008
7	Louisiana	Last execution in 2010
8	Idaho	Last execution in 2012
9	Oregon	declared moratorium on executions in 2011
10	Pennsylvania	declared moratorium on executions in 2015
11	California	declared moratorium on executions in 2019
12	Arizona	declared moratorium on executions in 2022
13	Tennessee	declared moratorium on executions in 2022

In total, 36 states, or 72% of the 50 states composing the US, do not use the death penalty, either because they have abolished it by law or because they have stopped carrying out executions.

The lack of enthusiasm for the death penalty in the US is also reflected in another Gallup indicator related to public opinion: the percentage of Americans who believe it is applied fairly. In October 2023[26], only 47 per cent of Americans considered that it was applied fairly, a drop of two percentage points since the previous similar poll in 2018.

8. The influence of the global trend towards the abolition of the death penalty

Another factor weighing on public opinion against the death penalty is the growing global trend towards abolition. Most countries in the world have already abolished the death penalty from their legal framework (61%). This percentage rises to 84% if we include countries that have not yet abolished the death penalty in law, but have not carried out executions in the last 10 years or more. In other words, if we include countries that have abolished the death penalty in practice, but not yet in law. For example, on the entire American continent (North, Central and South), only a few states in the US still execute people.

Summing up

Public opinion on the death penalty in the U.S. has shifted significantly in recent years, with growing support for life imprisonment over capital punishment. Simplistic binary surveys, typically asking whether people support or oppose the death penalty, often exaggerate support, as they do not offer alternatives like life imprisonment without parole (LWOP). A 2019 Gallup poll showed that when given the choice, 60% preferred LWOP, while only 36% favored the death penalty.

The gap between these two question formats reflects a more nuanced view of public opinion. Several factors contribute to this trend, including increased awareness of wrongful convictions. Racial bias is another significant issue, as studies show Black defendants are more likely to be sentenced to death, especially in cases involving white victims. Additionally, the death penalty disproportionately affects the poor, who often lack adequate legal defense.

The high costs of capital punishment, which are much greater than life imprisonment, have also led to growing public concern about its financial inefficiency. Furthermore, the belief in the death penalty's deterrent effect has waned, with only a small percentage of Americans believing it prevents crime. The bipartisan push for abolition, alongside global trends toward the end of the death penalty, reflects a broader societal shift. These factors, combined with a decline in executions, suggest that public support for the death penalty is steadily decreasing in the U.S.

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[26] https://news.gallup.com/poll/513806/new-low-say-death-penalty-fairly-applied.aspx