

**THE DEATH PENALTY: A VIOLATION OF  
HUMAN DIGNITY?**  
*2022 Annual Symposium*  
March 25, 2022

SESSION 1: THE DEATH PENALTY IN THE UNITED  
STATES

EDITH GEORGI,\* ANNEMARIE HARRIS BLOCK\*\* AND HANNAH  
GORMAN\*\*\*

**Edith Georgi:** I am impressed with the title of this program. Unfortunately, I called it a “Death Penalty Symposium.” Fortunately, you called it “*The Death Penalty: A Violation of Human Dignity*,” which is so appropriate and so true. I am going to recap, just to put us on the same page. This recap will repeat what has already been said, but share it in a more graphic way as an introduction.

Before I recap, I want to comment on the Timothy McVeigh and the Oklahoma City bombing case. Because something good did come out of that, as hard as it is to imagine. There is a New York Times article provided to Andres, the Symposium Editor. Some years into the litigation, the father of Timothy McVeigh met with the father

---

\* Edith Georgi joined St. Thomas University College of Law as an adjunct professor after 35 years in the Miami-Dade County Public Defender’s Office litigating death penalty and other major crimes cases. In the mid-1980’s she was chosen to create and lead the Office’s Capital Litigation Unit, which has become a model unit in Florida as well as nationwide.

\*\* Annemarie Harris Block is an Assistant Public Defender for the Law Offices of Public Defender Carlos J. Martinez and currently works in the Capital Litigation Unit.

\*\*\* Hannah Gorman is the director of The Balanced Justice Project at Florida International University’s College of Law and a research scholar based at the Florida Center for Capital Representation (FCCR) at Florida International University’s College of Law. She is a dual qualified attorney (United Kingdom and USA – New York) with a license to practice as a mitigation specialist in Florida.

of one of the deceased victims. It was an extremely painful coming together. It changed both of their lives. It allowed the father of the victim to bond with the father of the defendant, the killer. The meeting allowed a stream of forgiveness. Actually, in that entire process, there was a defense attorney named Richard Burr, out of Texas, who started having meetings. He started having open meetings with the families of the victims and that was the beginning of restorative justice practices, which have already been practiced in other countries. However, this restorative justice practice had not been specifically applied to criminal cases in our country. Restorative justice continues, as many of you know. I found students very interested in this practice as an alternative to capital punishment, and as an alternative to any kind of punishment.

I will now discuss the number of executions since 1976. As you may recall, the death penalty was held unconstitutional in the *Furman* case in 1972.<sup>1</sup> After that, all the states scrambled to rewrite their death penalty statutes. Executions proceeded to start up in 1977. There was a spike in 1998. Then, the trend was decreasing and, this year, there have been only three executions. This trend is remarkable. I think it tells us something about where we are going. I wish this number would just drop down to zero, but we are getting there. The United States is catching up with the rest of the world, so to speak. This is the same in numbers. In 2021, the number of death sentences went down to eighteen, as compared to 2000, when the number of death sentences in our country was as high as 223. We are witnessing a remarkable change. I tell my students, “one day, I’ll be teaching a history course instead of capital litigation course; it’ll be history.”

Now, most telling and most important for us in Florida, is the history of exonerations and the number of exonerations. There have been a total of 186. These are people who have been released from death row because evidence has come out that they did not commit the crime they were convicted of or there is serious doubt about whether they did. They are not necessarily completely declared innocent but they’ve been walked off of death row because of problems in the whole system. In many cases, they have been declared absolutely

---

<sup>1</sup> *Furman v. Georgia*, 408 U.S. 238 (1972).

innocent. Unfortunately, Florida leads the path – way above even Texas, if you can believe that. Now, Texas holds the record for the quickest executions. We have a different sort of record that way, but we have had thirty people exonerated from death row, which I think the most recent was just a few months ago. This is just mind blowing, and I would like our panelists to tell us why that happened.

Here is the number of prisoners by state, which I think is important to be aware of: Florida is number two. California has pretty much declared a moratorium, so their death row continues to grow but they're not executing anyone. Florida is number two, even ahead of Texas, with 330 prisoners, maybe plus or minus one or two. Professor Gorman will correct us. Texas has 199 prisoners on death row, because the state is still executing people on a regular basis. So their row is somewhat low. Currently, there are pending death warrants for this year. And there are not any in Florida. That is not because Florida fell off the map, but it is because there are not any. Texas has four scheduled. Tennessee has five scheduled, Ohio has one and Missouri has one. This is very different from several years ago. Concerning the population by race, which has been mentioned already, African Americans constitute 41% of death row. And their percentage in the population is hugely disproportionate; Latinos the same. The numbers just speak for themselves, given the ethnic diversity of our country: African-Americans constitute 9.85%.

This gives a picture of where the executions have happened, by region, since 1976 and in the South, overwhelmingly. The only northern state is Ohio. Missouri and Oklahoma are apparently considered Midwest. Texas definitely has its own category, that is just Texas. The South is responsible for the overwhelming number of executions. Now why is that important? One might want to look at murder rates and those people who think the death penalty is a deterrent. Where are the murder rates the highest? That is, in the South. I could say very much about whether the death penalty is a deterrent.

Now, the federal death penalty will be discussed. It is interesting to note the difference between the federal and state systems. The federal death penalty is all over the country. However, since the Biden administration, there has not been an execution, and there probably will not be during his term. The imposition of the

federal death penalty by race, again, is disproportionate. African Americans make up 39% of the 44 prisoners on federal death row.

Now, international law will be briefly discussed, because it has been mentioned. Currently, the United States is in sixth place in terms of executions. The United States has moved down a little bit, because a few years ago, we were about at fourth or fifth place. The data is not entirely sure about the number of executions in China, but it does lead the pack. Then Iran. Then Saudi Arabia. Next is Iraq. Then Egypt. Then the United States. That is how we rank internationally in terms of death row executions. The United States has the highest percentage of population incarcerated in the world. The United States incarcerates more people per percent of our population. There might be a problem.

With respect to countries with the most confirmed executions since 2005, the United States is Number four because the data was collected within a longer time period. However, these numbers have decreased a little. Now I would like to begin with Ms. Annemarie Harris Block, and just simply ask her, "Could you tell us a little bit about what it is like to be a capital defender in the Public Defender's Office?"

**Annemarie Harris Block:** I will start with saying, at one point, Professor Georgi was my boss, and I came back. Just to give a little bit of a background in my career. I began my legal career in the Public Defender's Office. Back in 1983 is when I started. And I was there for seven years, initially. And I ended my career trying a capital case, with a team. And the way it works in the Public Defender's Office is you're not just one attorney trying the case. We have at least two attorneys, a mitigation specialist -- and I'll explain what that is shortly --, and an investigator. And we work as a team. That is very critical, because in a capital case, I don't know if most of you know this, there are two phases. In order to be eligible for the death penalty in the state of Florida, it has to be done by indictment. You have to be charged with first-degree murder. And the state, after that is done, has a certain amount of time in which to determine whether or not they are going to be seeking the death penalty.

Years ago, when I worked with Ms. Georgi, there was a lot

more discretion, in my humble opinion, with the State Attorney's Office. There was an overview of cases because not all murders should be subject to the death penalty in the laws of the United States. According to case law, it should be reserved for the "worst of the worst."<sup>2</sup>

Once there is an indictment, and a notice of intent to seek death, which has to be filed in a case, there are two phases. Initially, there is the trial phase, in which there is a determination, if we go to trial, as to whether or not the State has proven the charges of first-degree murder. If in fact, they do, at trial, there is a second phase according to the statute. That second phase is for the sentencing. If somebody is charged with first-degree murder and convicted and found guilty, there are only two possible sentences. One is death. The second is life in prison without parole. Either way, the person who is found guilty of first-degree murder, when the State is seeking death, will spend the rest of their life in prison. They will die in prison, whether it is at the hands of the State, or whether it is ultimately through natural causes. They will not be released. They are not eligible for release. And it will not happen.

The second phase determines the sentencing, generally by the same jury that tried the case. If there is a conviction of first-degree murder, there is usually a brief time -- maybe a month, a couple of months -- before you go into the sentencing phase. At that point, the issue is, for the same jury, what is the appropriate sentence? Information as to the life of the defendant, the life of the person who is accused, is brought forth. The State has to establish aggravating circumstances and factors which are listed in Statute 921.141 and there's 16 of them. And the State provides mitigating evidence. Mitigating evidence is any evidence at all that would lead a juror to find that the death sentence, the death penalty, is inappropriate compared to a sentence of life imprisonment.

Typically, the team consists of two lawyers. One lawyer ideally focuses on the first phase of guilt or innocence, while the other focuses on determining the appropriate sentence. If somebody is found guilty of second-degree murder, or any lesser charge, they are not

---

<sup>2</sup> Kennedy v. Louisiana, 554 U.S. 407 (2008).

eligible for the death penalty. It is only when somebody is convicted of first-degree murder that the death penalty is considered. At that point, the issue becomes addressing the life of the person that you represent. A mitigation specialist, who may or may not be an attorney, becomes part of the team. The mitigation specialist delves deep into the family, life, and history of the individual who is charged.

To quote Ms. Georgi, there are two powerful things I have heard. The first is when I saw Edith try a case, where she used the phrase, “we are all better than the worst that we’ve done.” The other thing that has always stuck with me was a phrase that came from a friend of mine who battled alcoholism and was in treatment. The phrase was, “hurt people hurt people.” There is not one of our clients that I am afraid of, that I am fearful of, that I do not look at and learn from, in terms of their humanity, their dignity, and understanding of how they got to where they are. The vast majority of my clients are very remorseful. In addition, many of them do not understand how they got to where they were or what happened.

There is a quote from Frederick Douglass, that I love, where he stated, “it is easier to build strong children than to repair broken men.” The trauma that each and every one of my clients has suffered is beyond anything that I think most of us in this room could ever imagine. The mitigation specialist works with the family through school records and medical records. There are new scientific theories on what a jury may want to know about this person, as far as what leads them to recognize the dignity and value of the person and their life. Science has advanced tremendously in terms of brain imaging and brain development. Very often in our cases, we utilize neuropsychologists, doctors, and scientists who study brain functioning. It is now very clear that trauma impacts and changes the structural basis of the brain. In addition, all of my clients, and I hate to use the phrase broken, because frankly, it is something we all are. However, many of them are broken in ways that are hard to even imagine.

I believe in 2005, the United States Supreme Court determined, in *Roper v. Simmons*,<sup>3</sup> that we would no longer be

---

<sup>3</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

executing somebody who committed a crime under the age of 18. This was way behind the rest of the world, something Edith pointed out herself. However, up until that point, juveniles could be and were executed. Today, scientific studies show the development of the brain, particularly the frontal lobe in young males, which determines judgment and impulsivity, is not fully developed until as late as twenty-eight years old. Going back to where I started, along with another team in 1990, I tried a capital case that took 6 months. The client, Charlie was charged with killing two police officers. There was no question as to whether Charlie committed the crime or what happened, which is generally the situation with the cases we handle. The crimes we handle are horrific and there is no way around it. The tragedy is brutal; you start to realize the impact as you address the victims and their devastated families and friends. However, you cannot turn your head away from the reality of how terrible the crimes are. For the vast majority of my clients, the facts supporting the charges that they are facing are substantially able to be proven. So, what do you do as an individual? What does the community do? What does the nation do? How about the globe? As Ms. Georgi and I have said, we are so behind.

One of my cousins who lives in Italy came here asking what about I did for a living. When she found out that in the United States, we still have the death penalty, she was horrified, which was eye-opening to me. She could not wrap her head around where our country stands at this time.

In 1990, I was part of a team that tried a case where the client was sentenced to death. It was very difficult. However, it bought back a spark many years ago – a sense of social justice. The client was intellectually challenged, amongst many other issues. His upbringing was beyond what anybody would believe, however the jury did not care. Unfortunately even today, you still see a lot of people do not care. People focus on the act and not the person. Nevertheless, I believe that as Catholics we look beyond the act. We look at the inherent dignity because we are all created in the image and likeness of God.

Thanks to Ms. Georgi, I returned to work, under her, at the Public Defender's Office, after being in private practice for many

years, doing nothing but capital work. It is rewarding. About two years to three ago, right before COVID hit, I tried another case where we received a life verdict. Now Florida, even though we are still behind the eight ball, has joined most of the country, Alabama being the only state that doesn't, where unanimity is required before you sentence someone to death. This means, you cannot be found guilty of a DUI, without having a unanimous jury. As a matter of fact, in Florida, up until 2016, you could be found guilty on a majority verdict, for example, of seven out of twelve jurors. However, that is no longer the case. After the Supreme Court rules on this issue, despite Florida's push back, now, in order to sentence somebody to death you need to have a unanimous verdict.

**Edith Georgi:** That was great. So, Professor Gorman, why don't you tell us what you do and give us an overview of what you see going on in our State that brought you here.

**Hannah Gorman:** Thanks, Edith. Hi everybody, I am Hannah with the Balance Justice Project at FIU. The project actually was developed out of two initiatives. One was the Florida Center for Capital Representation, which was founded and run by Steve Harper, whose legacy continues in the work we do. But the Balance Justice Project came about with an umbrella organization because we were also doing some juvenile work with aspirations to change the system. Primarily, restorative aspirations with the intentions of creating a better balance. What we hope to cultivate, is a better system, or maybe an entirely different system. I'm echoing my old boss, who would say, "we don't change, we dismantle, blow it up." His view would be to get rid of prisons and the death penalty. Essentially, what we hope to do, by punching out principles, is to reduce harm, and create the best system that we can to deal with crime. Moreover, that goes to what Edith and Annemarie have already spoken about in reference to taking into account victim's perspectives.

So, what do we do at the Balance Justice Center? We collect information, do empirical research, and pull it all together. In addition, we educate by using that data and fueling our curriculums, feeding its

fruit to folks like yourselves, and attend trainings with attorneys. We advocate and pass the information to the people who need it to change policy, etc.

We mitigate, which, as Annemarie just alluded to, is the role of a mitigation specialist. My background is that I am a U.K. lawyer, barred in New York but not Florida. I am not going back to law school in Florida. Here, I practice as a mitigation specialist. So, while also an attorney elsewhere, I get to do that because the regulations allow me to pass through to be a private investigator. What it means is that I do the life history investigation, giving me the ability to bring these real cases to the clinic. At the clinic, I have law students and non-law students alike who like to get involved in learning about becoming a mitigation specialist. You can still work in this field and not go to law school. Typically, those folks are of social work, psychology, and legal psychology backgrounds. As a matter of fact, some of the best mitigation specialists in our field have been former school teachers who have witnessed the pipeline, the school-to-prison pipeline. Get into it. Want to do stuff. They often sadly reflect on how they are able to pinpoint which kids would potentially be our clients later on in their adult lives.

Finally, we restore. This is where we are headed with this project and indeed is something I hope to work more closely on with Edith and the good folks at Restorative Justice Association. The system in place right now is very adversarial, from the minute an incident such as a homicide occurs. The divide it causes only creates more pain and hurt for everyone involved. Additionally, the system in place contributes to the mass incarceration problem that is unique to the United States.

As someone who was not born or educated in the United States, people often ask how I came to be involved in this line of work in Florida. When I was 13 years old, I watched a documentary called “Dead Man Walking,” which is based on a book by Sister Helen Prejean. The documentary, which follows the story of Patrick Sonnier, a convicted killer who was sentenced to die in Louisiana, shocked me. I was horrified to learn about just how sheltered I was living in the United Kingdom. No one had actually explained to me that the world could actually be so horrific. Let alone, a world, and a country, that I

saw so differently through movies I watched growing up. So, after law school, I decided to go to the Great United States, where I ended up in Jackson, Mississippi. From that point on, I began working in this field.

Additionally, on a personal note, I was already on track for doing this type of work when my uncle was murdered. He was bound, gagged, strangled, and left in no man's land. A few years before that, another uncle of mine had committed murder. He was a doctor from Iraq who spent his life unable to go back home. He managed to get out and study medicine overseas and spent his life working with torture victims. This was a personal introduction into how somebody who had done wonderful things ended up in a situation where they are killing somebody else. Both experiences with my uncles allowed me to understand both sides, the killer and the killed, and it is an insight I can apply to my profession. Ultimately, that is what the Balance Justice Project hopes to do, understand and bring together both sides.

A lot of what I do includes analyzing a lot of data and statistics. Edith asked me to clarify the death row numbers in Florida. As of today's date, that is March 25, 2022, there are 313 prisoners on Florida's death row roster. However, that number may not be exactly accurate. The *Hurst* case,<sup>4</sup> which essentially led the U.S. Supreme Court to strike down Florida's death penalty statute and spurred the elimination of the non-unanimous jury verdict for death penalty cases, put Florida in a state of legal chaos which has caused the Department of Correction to, inconsistently report which prisoners are technically under review of a sentence, meaning, a new penalty phase trial. After Jackson, Mississippi, some time in Texas, and also some time in Oregon, and elsewhere in the world, I decided to come to Miami. Florida was a state that needed resources, and I could have a cocktail on a nice beach too. Perfect, right?

So, we embarked upon this. At the time, *Hurst* had just come down from the Supreme Court. This brought up the question of how many people this decision would actually impact and, moving forward, how many people would actually face the death penalty in Florida. At first, our statistics were not great, but presently they are much more accurate, albeit still being somewhat behind on statistics during the COVID-19 era. Presently, we have over a thousand first-

---

<sup>4</sup> *Hurst v. Florida*, 577 U.S. 92 (2016).

degree murders being prosecuted in Florida. At least 350 of those are confirmed, filed, death notice cases.

When looking at the law in the United States, regardless of my own personal views about the death penalty, we know that the Eighth Amendment requires that we reserve the death penalty for the “worst of the worst,” a phrase that can spark wonderful debates as to its true meaning and what first-degree murders qualify as such. One of the things I’m interested in is the ratio between the number of first-degree murders and the number of death cases. For example, looking at Miami-Dade’s figures, around 90% of all first-degree murders in Miami-Dade are death noticed. That’s a problem.

In 2016, after *Hurst* was decided, there were changes to the death penalty statute. The State would formally give notice to the court that they intended to seek the death penalty on a given first-degree murder case and state the reasons why, the reasons being the 16 aggravators taken from the relevant Florida statute. Interestingly, the number of factors doubled over time since the 1970s. At first, there were only 8 factors and, usually due to some kind of current affair issue or particular high-profile case, more and more aggravating factors have been added over time -- which bring us to Florida’s current 16 factors. The reason why I highlight that is because if we are looking for the “worst of the worst,” our law has to narrow the poll of first-degree murders effectively to be legal, to be constitutional. The first way to do that is via statute, such as by having listed aggravators. One of the issues becomes how much difference there is between the factors. For example, one aggravating factor is, “especially heinous, atrocious, and cruel” – EHAC. This is really broad language. However, there are others that are much more narrow such as “killing a police officer.” You could see the difference between the aggravator “especially heinous atrocious and cruel” and “killing a police officer.” This is how we narrow and make a murder worse. And then, it is important to point out that the prosecutor has discretion. You don’t have to seek death. So, this statute guides you. And you do have to show, you have to be able to prove, that at least one of those aggravating factors beyond a reasonable doubt exists.

Another aggravator are priors. Prior felonies have a massive influence on some of the statistics we have when we’re examining

which aggravators are the most common, which are most likely to be relied on, and we're looking at race. Because we know that in terms of race, the black community and minority communities have a higher degree of being charged with felonies. Therefore, if you're charged with first-degree murder, there will probably be reliance on that prior as an aggravator, which automatically qualifies you and gets you through. And again, if you look at that very clear aggravator, not much fact finding is required because it is usually a criminal record which produces a court document. And just like that it is done, it is proven. These are some of the factors we look at. But the other thing I think I'm noticing, which I think is important, whilst not in a position to give you the modern Florida death penalty, post-*Hurst*, post-2016, race predictors of who gets a death penalty notice and who doesn't. We are getting closer, though, we're crunching those numbers, so they are coming, too. What I can tell you concretely, is that it is geographically disproportionate as to what is a death case. A death penalty case in Jacksonville or Duval County is not a death penalty case in the Keys. I'm picking the two most extreme cases; nobody really kills people in the Keys because they're doing better things and having a nice time. But in Jacksonville, there is a case, *Glossip v. Gross*.<sup>5</sup> This case is actually looking at lethal injection issues, with a wonderful dissent by Justice Steven Breyer. Breyer's dissent essentially outlines a roadmap, for anybody who is out there as an abolitionist and a lawyer to bring the right case to the Supreme Court. In there, you see Justice Breyer pull on various research, where he points to how, in the context of 75% of the world being de facto abolitionist towards the death penalty, the United States is leading in these numbers. And when you examine the data relating to the U.S., you realize that only 2% of the counties are responsible for 90% of the nation's death sentences. When you are looking at definitions of cruel and unusual punishment, you may think that not many squarely fall into the unusual category. But when you hone down to consider that, we have to look at a different 10 year period which still follows the same trends, and the data shows that Duval county is responsible for 25% of Florida's death sentences over a 10 year span between 2010 to 2016. So that should give you an idea of some of the patterns that we're seeing.

---

<sup>5</sup> *Glossip v. Gross*, 576 U.S. 863 (2015).

The only other thing to add, a quote that Annemarie said, “We are all better than the worst that we’ve done.” Annemarie, did you think of that, steal that from Brian Stevenson, or did he steal that from someone else?

**Edith Georgi:** I’m pretty sure, he stole that from Dick Burr.

**Hannah Gorman:** There you go, Dick Burr out of Texas. Well, I don’t know if these are Brian’s own words or he stole it from someone else, but I’m stealing it from him. What Dick Burr is trying to illustrate to us is that he is talking about proximity, and I think he uses that as advice to everybody else who is interested in this kind of discussion. For me, that’s what else I see, proving proximate to my clients. I get to see this whole entire world, and I have come to realize that some of the experiences I hold and the experiences that others may hold demonstrate that we have common ground. I have not met anyone who I have not been able to reach that level of connection with. And so, when you are fighting for that person’s life, I don’t see a system that is appropriate, but rather a system that is disgusting.

**Edith Georgi:** I would also like to point out that I hope there’s a way for the audience to ask questions because I’d like to have that started soon. Apparently, the average time on death row, before someone is executed, is about 20 years in Florida. In Texas, the average is much less. But in other states, it is equally as long. So what happens is we are, as a state and a country, allowing for people to remain incarcerated and in a cell on death row for 20, sometimes 26 years. I mean, we are executing old folks, which to me is one of the most bizarre things in the world. Justice Breyer also pointed out the tension between being able to give effective assistance of counsel and being able to deliberately sentence to satisfy the victims. But what we are seeing is, through this appellate process, it goes on and on to protect the defendant. The victims are harmed over and over again, because each time the case comes back to court for review, the victim’s family must relive the case. They get notices, they may come to a hearing, they may have their family representative come to the hearing. They are

being tortured over and over again by having to go through the same traumatic experience time and time again. So not only are we executing old folks who would probably be better off in a nursing home because by then, they are just harmless, but we're torturing the families and friends of the victims for things that happened years ago. So, what's going on here?

**Annemarie Harris Block:** Foolishness, if you want an answer. I don't think there's necessarily any logical response to that in terms of what is going on here. Currently, there are, in Miami-Dade County, five pending re-sentences – individuals that were on death row at the time, in 2016, when the law changed and the confusion that Hannah indicated that when the *Hurst* case came down, that are set for re-sentencing. There are many more in Miami-Dade County, Florida, but our office has five. Two of the defendants in those re-sentencing cases are in their 70s. Even recently, some of the cases had a status hearing in front of a judge, and because of COVID and the intricate problems that arose from that, many of the clients could not go off to court and could only be shown on a video screen. More importantly, however, because they are death row returnees, even though their sentences have been abolished to technically something other than death row, they are treated differently regardless. They are in solitary, much like where many of the clients used to live in, in 8 by 9-foot cells. They really don't have the ability to get out, and when they are, they are only removed from their cells with three or four officers, are stripped and searched every time they leave a cell and go back. Even in terms of calling their attorneys and appearing on video, these clients are treated with this level of caution and security. So, many judges have not been able to see these clients and the conditions they have endured. An example of this arose recently in which a judge presided over a hearing where the client, who was 72 at the time and had been in prison for 23 years on death row, which is not a healthy environment, and they were not getting the proper medical care that many people at that age would get. The client appeared on the screen, and the judge just stopped in disbelief. It should be noted that we were all on video, so we all could see everybody's responses, especially the judge's response, which was that he stopped and said, "can I ask how old he

is?” to which someone responded that he was 72. The judge could not believe this and stated that the client looked like he was probably about 85 or 90 years of age. I will never forget that moment, how the judge was in complete disbelief with how old he really was versus how old he appeared to be from the insufficient treatment he was receiving. And the judge actually turned to the State and asked, “are you really going to do this?” In other words, the judge was commenting on how another trial will probably not happen for another few years down the road with somebody who probably won't live that much longer, and we haven't even touched the actual financial costs that add so much more strain to the client. And you would probably know a bit more. I saw something where, for each person who is, each capital case is like \$600,000?

**Hannah Gorman:** A million.

**Annemarie Harris Block:** Ok. The logic of all this, the keeping pace with the changing societal norms, the public views with capital punishment. I think a lot of it just doesn't make sense and is just mere foolishness. It just is not logical or not expeditious. It makes no sense and it is not right for these men and women who, for the most part, are remorseful, and just kind of want to live out the rest of their lives.

**Edith Georgi:** These are grandparents who have never met their grandkids.

**Annemarie Harris Block:** That's my take on it. I don't know if anybody else feels a similar way.

**Andres Lopez:** Thank you very much panelists. Now, we will have a few questions from the audience. We will have individuals passing mics around. For anybody who has any questions, please raise your hand.

**Question:** Some years ago, maybe five or six, there was a lengthy

article in *Times Magazine* which talked about the decline in death penalty cases and executions in the United States which I thought was a very uplifting article; it was very hopeful. And it was confirmed by those series of bar charts you put up on the screen. On the other hand, however, it seems to me and probably to most people in the room or anybody who has been reading the news over the last several years that the country seems to be getting angrier and meaner, and a lot of state legislators seem to be “playing to their base,” and are passing stricter and harsher laws of seemingly every kind. Does it ever worry you that eventually those trends that you saw before may start to reverse themselves and go in the other direction? Do you monitor every state legislator to change these laws federally? Do you keep an eye on that stuff?

**Hannah Gorman:** Yes, absolutely we do. For example, 2020 was a particularly pretty bad year for criminals generally, but certainly for capital cases in Florida. We had about five decisions that undid years of progress which eventually resulted in a growing number of proportionality reviews of death sentences. So yes, we have kept these rising issues on our radar. And now, using the information we collected over the last 6 years, we have come to formulate our own proportionality comparison because the Florida Supreme Court has now declared that they are not doing that as part of direct appeal review. Obviously, this is a difficult task. Now, we’re asking the likes of Annemarie to go in at the sentencing phase and do the comparative proportionality analysis that is best placed out of the Florida Supreme Court because that’s the only court in the state who has jurisdiction across every case. So yes, absolutely. Do we worry about it? Yes, we do. Are the trends still going in the right way in a way we are optimistic? Speaking for myself and what I gain from the community, we remain optimistic. And I think we will gain a larger insight in the international session because there is such support and the trends and decline. But it also goes to what Annemarie was saying about foolishness. We have these very clear trends, we’re on the pack, abolitionism is coming, I truly believe that. I just hope I’m alive to see it happen. But it’s foolishness to do what we’re doing with the number of first-degree murders occurring as well as the number of death cases

we have. And just to show, I'm going to throw a couple more statistics out that would bring more clarity to this issue before I leave today.

Let's take, for instance, *Hurst*, the chaos it brought about, and what it resulted in. To put it bluntly, there were 146 people on a 348 death row at the time. Overnight, over the span of 12 months, having their death sentences vacated, giving them a new penalty trial. What we've seen is that roughly 48 have gone and had another trial. Of those 48, at least 37 are life sentences. If we're looking at what that message is, we have more statistics that the jurors are saying these are not death penalty cases. So, we're spending all this time and resources prepping for a death penalty case, dragging victims and defendants through this awful process, only to hear at the very end that it was what the defense thought it was in the very beginning. And many of those plea negotiations and other remedies were probably some of the best ways forward rather than prolonging the inevitable. I'll also add that, since we don't have the state here with us today, that state attorneys on those old cases are now saying, "oh, you were on death row for 10-15 years but today, no, it's not a death case, we're not trying this." That has happened in 33 of those 37 cases.

**Edith Georgi:** One of the big factors to consider is Florida's alternative to a death sentence, which is life without parole. Up until the mid-90s, the alternative to a death sentence was life with parole after a number of years, normally 25 years. The jury never believed the person was going to be there forever. But now, the jury is specifically instructed that the person will spend every single day and will die in prison under life without parole. There is no release from that. That has made a big difference because a lot of jurors think that life without parole is actually worse than getting executed because it's a lifetime of suffering.

**Annemarie Harris Block:** I just want to comment that, unfortunately, what I'm seeing in Miami-Dade County, specifically with the five cases that we have, are re-sentencings. Pretty much all of the clients are prepared for re-sentencing, especially because there's no other alternative. In reality, the only two options these clients have are either

life without parole or trial with a potential death sentence. The only case that I potentially have where there may be an agreement to a death sentence is a case where a client is gravely ill. And even still there, there is a real issue as to whether or not the client is going to make it through the trial, and if so, how much longer does he have. So, the fact that in Miami-Dade County, they are not wrapping their heads around what is going on around the state, is incredibly frustrating from our standpoint.

**Hannah Gorman:** Highlighting the geographical bearings, it is worse if you committed that crime in Miami-Dade. Or you are at least being treated very differently compared to somebody in a different circuit who is getting those plea deals. And it probably relates to costs also, who you chose to be your elected state attorney of course, and the prosecution's stances. But it's not a fair system. We're not treating people equally.

**Question:** Good morning, my name is Nick Thomolson. Full disclosure, I am Hannah Gorman's fiancé. This question is for all three panelists. Do you believe that the death penalty will be abolished in your lifetime? And I mean federally, not via individual states. And please provide a reason as to why it will be abolished or why it won't be abolished.

**Annemarie Harris Block:** Up until a few years ago, I did. Do I think it will happen in my lifetime? I hope and pray. I'm not sure. But I think it will happen. I am concerned about some of the things Frank that you mentioned and the tide and the loudness that we're hearing in terms of anger and soft on crime and all this stuff we hear about. It's made me second guess a bit what I thought was almost a forgone conclusion. I hope it happens in my lifetime. I would love to be out of this job and do other things, honestly.

**Edith Georgi:** I would echo that. And unfortunately to the earlier question about possible change and the trend, there's another factor going on and that's the increase in violence everywhere. In major

cities, the shootings. Places like New York, New England, Miami. But places that don't have the death penalty, all these horrific crimes that are going on because of the increase in violence which is because of the increase in stress in our population. It's because of the increase in economic disparity which is because of the increase in racism at every level. And I could go on and on. Yes, I mean, unfortunately, with this uptick in violence, I fear legislative reactions and court reactions, which are going to rain on our parade. Unfortunately, I used to think that it would be over in my life. But I think we're going to have a big backlash.