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978-0-521-71524-9 - The Decline of the Death Penalty and the Discovery of Innocence

Frank R. Baumgartner, Suzanna L. De Boef and Amber E. Boydstun

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THE DECLINE OF THE DEATH PENALTY AND THE DISCOVERY OF INNOCENCE

Since 1996, death sentences in America have declined more than 60 percent, reversing a generation-long trend toward greater acceptance of capital punishment. In theory, most Americans continue to support the death penalty. But it is no longer seen as a theoretical matter. Prosecutors, judges, and juries across the country have moved in large numbers to give much greater credence to the possibility of mistakes – mistakes that in this arena are potentially fatal. The discovery of innocence, documented through painstaking analyses of media coverage and with newly developed methods, has led to historic shifts in public opinion and to a sharp decline in the use of the death penalty by juries across the country. A social cascade, starting with legal clinics and innocence projects, has snowballed into a national phenomenon that may spell the end of the death penalty in America.

Frank R. Baumgartner is Miller-LaVigne Professor of Political Science at The Pennsylvania State University. His previous publications include *Comparative Studies of Policy Agendas* (2007), *The Politics of Attention: How Government Prioritizes Problems* (with Bryan D. Jones, 2005), *Policy Dynamics* (with Bryan D. Jones, 2002), and *Agendas and Instability in American Politics* (with Bryan D. Jones, 1993), winner of the 2001 Aaron Wildavsky Award, APSA Organized Section on Public Policy. He has been published widely in journals and serves on the editorial boards of *American Journal of Political Science*, *Political Research Quarterly*, *Journal of European Public Policy*, *Policy Studies Journal*, and *Journal of Information Technology and Politics*.

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This project began with a phone call. Peter Loge, a Washington-based advocate then working with The Justice Project, called Baumgartner in 2002, saying he had read some previous work about the importance of issue-definition and framing and that he was working on framing an issue, and he asked if we could discuss it. “What’s the issue, and what’s the frame?” Baumgartner asked. “Well, the issue is the death penalty, and the frame is that it’s a government program run by bureaucrats, and it is prone to waste, inefficiency, and errors,” Loge responded. With that intriguing beginning, Baumgartner agreed to come down to Washington to meet and find out more. Soon Cheryl Feeley, an undergraduate student at Penn State searching for a topic on which to write her senior honors thesis, had a new topic: investigate the history of how the death penalty has been discussed in America over several decades to see if it had, indeed, been reframed. Boydstun, then a first-year PhD student, got involved. After some time, as our analysis got more and more complicated, De Boef got interested in both the substance of our study and the methodological challenges we faced. Feeley graduated in 2003, having completed her thesis, and took a job in Washington with The Justice Project; she is now in law school, and we thank her first and foremost for her initial work. In the years since then, we three authors have learned a great deal about a topic on which none of us was originally expert; it has been shocking.

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providing the initial set of survey data we used to develop our measure of public support for the death penalty and for writing the algorithm that made this measure possible in the first place; James Alan Fox for providing us with access to victim-level data from the Supplementary Homicide Reports File, 1976 to 2003, and for walking us through the weighting procedure; the staff at the U.S. Department of Justice, Bureau of Justice Statistics for providing supplementary homicide data; and Christine Mahoney and Daniel Jones-White for training Boydston in the nuances of data management.

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We appreciate the cooperation of photographer Loren Santow, whose series of portraits of exonerated death row prisoners that we use on the cover and in our epilogue puts into greater clarity than our words can do the human cost of the issues that are at the core of our discussion throughout this book.

It is impossible to write a book on the topic of innocence in the death penalty debate without thinking of the individuals who are at the core of the analysis as either victims of violent crime in America or victims of a broken system. There is truly no greater disservice to society than to condemn the wrong individual for a vicious crime while the guilty party goes free. We dedicate the book to those who have been the victims of crime, to those who have been falsely convicted and punished for crimes they did not commit, and to those who have worked to bring this problem to the public consciousness.