

# Oregonians face death penalty—again

By Paul Ertelt  
Of the Emerald

DECISION '84



This the fourth of a six-part series examining statewide measures that will appear on the Nov. 6 ballot. This part explores Ballot Measures 6 and 7.

On Nov. 6, Oregonians will decide whether or not they want a death penalty. It is a decision they have made several times before.

Throughout their history, Oregon voters have flip-flopped on capital punishment. In 1978, voters passed a death penalty initiative by a margin of 64 percent.

But that initiative was declared unconstitutional in 1981 by the Oregon Supreme Court. That measure left the decision of invoking the death penalty to the judge, but the high court ruled that the accused had the right to a jury decision on the sentence.

Ballot Measures 6 and 7, if passed by the voters, would make Oregon the 39th state with a death penalty. Ballot Measure 6 would amend the Oregon Constitution to exempt aggravated murder from constitutional prohibitions against cruel and unusual, vindictive and disproportionate punishments.

Measure 7 would require that the death penalty be meted out for aggravated murder under three conditions: when a unanimous jury finds that the murderer intended to kill the victim, probably is a continuing threat to society, and had responded unreasonably to any provocation by the deceased.

Death would be administered by lethal injection. Aggravated murder committed under other circumstances would bring a penalty of 30 years imprisonment without parole.

Sponsors of the measures claim the death penalty would act as a deterrent and prevent future murders.

"We are the people who want to save lives," says Dedi Streich, chair of Concerned Oregonians for Justice, which sponsored the measures. "And we believe the deterrent factor

of the death penalty does save lives."

But University psychology Prof. Robert Mauro counters that "there is no valid social science research that shows a deterrent effect for the death penalty."

Mauro cited research done by Thorsten Sellin, which indicated that reinstating the death penalty had no significant impact on homicide rates. He also pointed to research done by sociologist William Bowers that indicated homicides actually rise as executions rise.

"What often happens is you get a decrease in homicides on the day of or on the day before the execution, and after that there's an increase," he says.

The only study that shows a deterrent effect of the death penalty has been discredited because it was based on FBI murder statistics compiled during the 1930s. The FBI admits its statistics were inaccurate, Mauro says.

But Streich says that social scientists have failed to conclusively rule out the deterrent effect and says anecdotal evidence does show a link between deterrence and the death penalty.

Streich points to a 1980 Lane County case. Ronald Reynolds was indicted for aggravated assault and theft after he beat a minister and stole his car.

During his trial, Reynolds said he did not kill the minister because he feared the death penalty, Streich says.

**"We believe the deterrent factor of the death penalty does save lives."**

— Dedi Streich

Streich also cites a study done by the California Attorney General's Office during the 16 years when capital punishment was prohibited in that state. During that period, 1964 through 1980, homicides increased by 240 percent, after adjustments were made for population increases, she says.

The government, however, has no right to take a life and if

an innocent person is executed, that decision is irrevocable, says David Fidanque, associate director of the American Civil Liberties Union of Oregon.

"We have safeguards built into our two measures that would make executing the wrong person impossible," Streich says. Before the death penalty could be handed down, two juries would have to be convinced "beyond a shadow of a doubt," she says. The first would determine guilt and the second would establish whether the three criteria for the sentence were present.

Opponents of the measures say that the death penalty has been unevenly administered, with minorities making up a disproportionate share of the death row population.

While at Stanford University, Mauro and Samuel Gross studied 340 death sentences in eight states, including Florida, Georgia and Illinois. Their findings showed that death sentences were more common when the victim was white than when the victim was black.

Even though Oregon has a small minority population, with blacks only making up about 1 percent of the population, discrimination is still a problem here, Fidanque says.

"Oregon does have one of the highest rates of incarceration of minority per capita of any state in the nation," Fidanque says. "What we're talking about here is not overt discrimination. It's a very subtle discrimination."

Discrimination is a problem, Streich admits, but says that minorities are most often the victims of violent crimes and would therefore benefit if a death penalty decreased homicides.

According to the FBI's Uniform Crime Report, the chances of a white male being murdered are one in 164, while the chances for a nonwhite male are one in 28, she says.

Fidanque admits that most Oregonians support the death penalty, but warns that they should take a closer look at Measure 6. This measure would exempt the death penalty from any protections against arbitrary death penalties.

But there would still be federal protections from ar-

bitrary executions, Streich says. In 1972, in a 5-4 decision, the U.S. Supreme Court ruled that arbitrarily imposed death sentences were unconstitutional.

Streich insists that the original ballot measure did not include the reference to disproportionate penalties, but

**"Only the poor get executed. The wealthy never are."**  
— Clarence Gladden

it was added at the insistence of the Oregon Supreme Court.

She also said her group was advised by a former chief justice

of the court that the constitutional changes in Measure 6 were necessary to prevent the statutory measure from being

thrown out by the court.

"Oregon is the only state that has ever repealed the death penalty by vote of the people," Fidanque says. "Oregon has done it twice, in 1914 and 1964."

The death penalty was reinstated by initiative in 1920, and its abolition was voted down in 1958. Between 1903, when the Legislature required that all executions be held at the state penitentiary, and 1964, when it was abolished, 92 people received death sentences and 58 were eventually executed.

"Only the poor get executed. The wealthy never are," Clarence Gladden, former warden of the Oregon state penitentiary, noted just before the death penalty was abolished.

But there are exceptions. Portland attorney James Finch was executed in 1909 for shooting a colleague.



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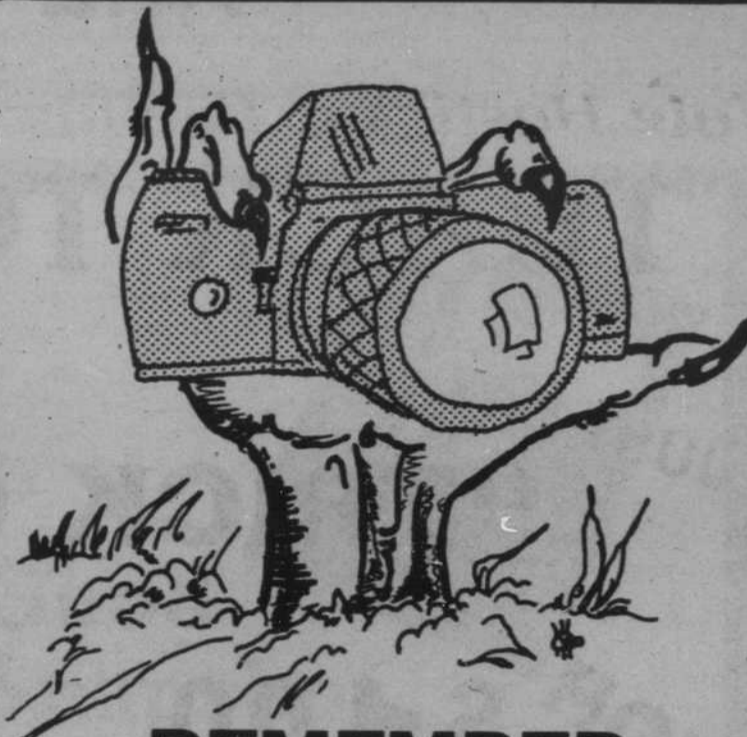
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