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## As Seen on Screen: American Ambivalence Shown through Death Penalty and Vigilante Films

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As Seen on Screen:

American Ambivalence Shown through Death Penalty and Vigilante Films

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Honors Thesis Seminar  
25 March 2022

*Abstract*

The United States is one of the last western nations still practicing capital punishment. A history of and commitment to vigilantism and its ideals offers an explanation of America's retention of capital punishment. Employing scholarship on law and popular culture and vigilantism, this thesis finds that pro-death penalty frames are prevalent in vigilante films while anti-death penalty frames are prevalent in films that focus specifically upon capital punishment. Since the 1960's however, there has been a gradual shift towards anti-death penalty frames and away from pro-death penalty frames as well as changes in the themes presented in the two genres of films, suggesting growing ambivalence for the death penalty. Finally, in films of the twentieth century particularly, vigilante films rely upon politics of countersubversion while death penalty films flesh out and repudiate such politics.

## TABLE OF CONTENTS

Chapter One: Setting the Stage.....	3
Literature Review .....	5
Research Design .....	30
Chapter Two: Countering Subversives from 1960-1975 .....	49
Chapter Three: Broadening Genre Horizons from 1976-1999 .....	68
Chapter Four: Reassessing Who Deserves the Death Penalty from 2000-2021 .....	84
Changes in Time in Representations of the Death Penalty .....	100
Appendix .....	114

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## Chapter One: Setting the Stage

The United States is one of the last western nations in the world to retain capital punishment. According to Zimring, “By 2001, the United States and the developed nations of Europe and the former Commonwealth nations were further apart on the question of state executions than on any other issue”<sup>1</sup> Yet abolishing the death penalty is rarely a topic of discussion in recent politics and retention of it appears to be something of which the majority of Americans are in favor. Although the United States briefly paused capital punishment in 1972, the institution was reestablished in 1976 and has since faced no significant threats to its existence. Meanwhile, capital punishment in Europe came to a quick and decisive end in the late 20th century and has made no resurgence.

Yet, at the time of abolition, most European states had levels of public support for the death penalty that were as high as levels of support in the United States, meaning at least 2-to-1 majorities in favor of retaining capital punishment.<sup>2</sup> Zimring argues that the reason Europe was successful in abolishing the death penalty while the United States has not been is because the support in Europe was superficial while the support in the United States is passionate. In other words, he suggests that Americans who support the death penalty are more passionate about its retention than the Europeans who had supported it before its abolition. Abolishing capital punishment in Europe came up organically country by country, rather than as a law superimposed upon the entire collective. Since each country willingly made this change of their own volition, it becomes clear that the mindset of Europeans is somehow different as a collective whole than the mindset of Americans. This suggests there is a cultural difference between

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<sup>1</sup> Zimring, F. E. (2003). *The Contradictions of American Capital Punishment*. New York: Oxford University Press. 4-5.

<sup>2</sup> *Ibid.*, 23.

Europe and the United States - a difference that some scholars have attributed to the history of vigilantism.

Current studies propose that there is a strong connection between American support for the death penalty and the nation's history of vigilantism.<sup>3</sup> If movies about the death penalty are more sympathetic to the abolitionist camp, then where in our popular culture are pro-death penalty values reinforced? I investigate vigilante movies as one site of pro-death penalty propaganda. I analyze which pro- and anti-death penalty sentiments are most salient in films about capital punishment and vigilantism from 1960-2021 and how this has changed during this sixty-one year period.

Researching the death penalty, and especially the value system that upholds it, is important to understanding why the United States has continued to retain an institution that most western nations have abolished. Research has shown that the majority of Americans remain uneducated about the death penalty and form their position without, or in spite of, facts that dispute the efficacy of the death penalty.<sup>4</sup> I build upon Zimring's theory that support for the death penalty and strong vigilante tradition are connected. I do so by investigating American films as both a source, and a reflection, of the values that influence pro- and anti- death penalty positions. I identified five pro-death penalty arguments and five anti-death penalty arguments in literature about the death penalty and measured their prevalence in popular culture texts - specifically the death penalty and vigilante film genres. I chose to use these two genres because I wanted to investigate the limits of Franklin Zimring's hypothesis about the connection between support for

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<sup>3</sup> Ibid; Messner, S. F., Baumer, E. P., & Rosenfeld, R. (2006). Distrust of Government, the Vigilante Tradition, and Support for Capital Punishment. *Law & Society Review*, 40(3), 559-590; Schadt, A. M., & DeLisi, M. (2007). Is Vigilantism on your Mind? An Exploratory Study of Nuance and Contradiction in Student Death Penalty Opinion. *Criminal Justice Studies*, 20(3), 255-268.

<sup>4</sup> Ellsworth, P. C., & Ross, L. (1983). Public Opinion and Capital Punishment: A Close Examination of the Views of Abolitionists and Retentionists. *Crime & Delinquency*, 29(1), 139-142. In this study, when asked nine questions about the death penalty in the United States to gauge preexisting knowledge of this topic of participants, there was a majority correct response for only one of these nine questions correct.

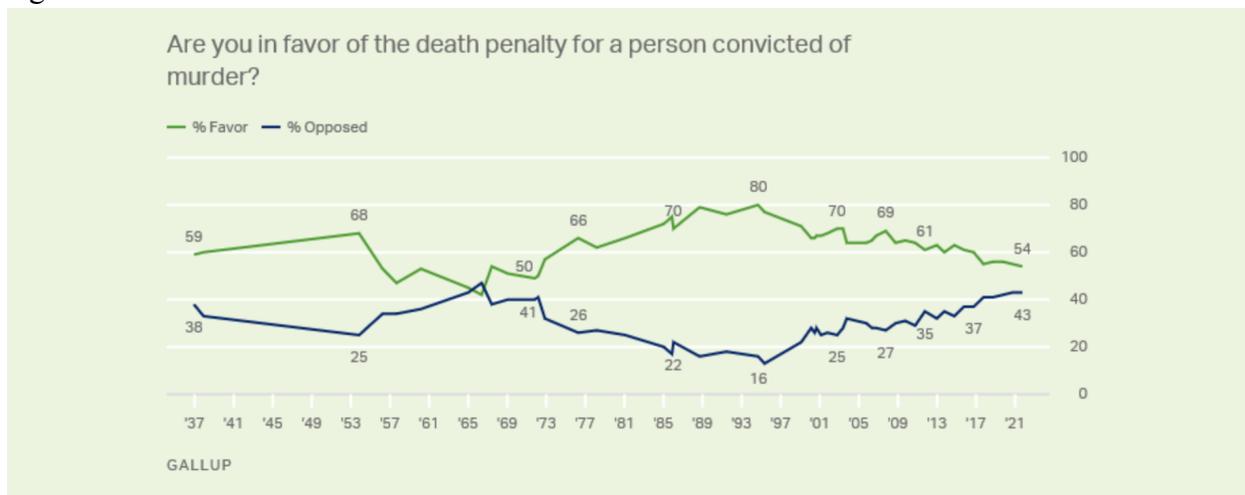
the death penalty in the United States and a history of vigilantism and because I suspected that anti-death penalty frames would be prevalent in films about the death penalty. I wondered where pro-death penalty frames are shown in popular culture. I chose to look at vigilante films as a site of pro-death penalty arguments based on the hypothesis put forward by Zimring. This thesis argues that the sentiments identified as pro-death penalty frames are prevalent in vigilante films while those identified as anti-death penalty frames are prevalent in films that specifically concern capital punishment. I examined these two genres of films over the span of sixty years and found that both genres of film are gradually becoming less likely to use pro-death penalty frames. I also found that vigilante films feature politics of countersubversion while films about capital punishment reject this strain of political thought, reinforcing the connection between vigilantism and capital punishment as political tools wielded by those in power against underserved communities. The overall trends I found in the vigilante genre over time were a shift away from racism and discrimination; a shift toward more fantastical narratives; and increasing complexity in the villain archetype. The trends I found in the death penalty genre over time were more willingness to condemn capital punishment as an institution; a greater highlight of the death penalty as cruel and unusual; and more acknowledgment of capital punishment as a racialized institution that disproportionately affects Black Americans. Coupled with diminishing public support for the death penalty and increasing numbers of states abolishing the death penalty, I argue the findings from my study could hint at larger changes in American society - perhaps even culminating in future abolition of the death penalty in the United States as a whole.

## **Literature Review**

### **Public Opinion as a History of the Death Penalty**

In the past sixty years, public support for the death penalty has impacted the prevalence of its use. As support for the death penalty has increased, so too have the number of executions, and the converse is true as well. I chose the past sixty years for my thesis because 1960 is when support for the death penalty first began to wane in public opinion polls. Furthermore, the moratorium on the death penalty began in 1972, suggesting that the 1960s is an important time for attitudinal changes about capital punishment. In the past sixty years, the culture surrounding capital punishment as an institution in America has transitioned through three distinct phases: low support from the mid 1960's until 1975; a sharp increase in support from 1976-1999; and a gradual decrease in support from 2000-2021.

Figure 1.<sup>5</sup>



### Phasing out the Death Penalty: 1960-1975

The 1960-1975 period diverged in trends from previous years in its low levels of support for the death penalty. Gallup has been tracking support for the death penalty since 1937. The only time in the past 85 years when support for the death penalty has fallen below opposition for it was in 1966 when 42% supported it, 47% opposed it, and 11% were ambivalent.<sup>6</sup> In 1972, the

<sup>5</sup> Gallup, Inc. (2021). In Depth: Topics A-Z Death Penalty. *Gallup*.

<sup>6</sup> Ibid.

U.S. Supreme Court issued a decision in *Furman v. Georgia* that rendered the then operative system of capital punishment obsolete, citing shifting public opinion and the arbitrary nature of death sentences.

The Supreme Court has reaffirmed in numerous cases that the opinion of society (which can shift over time) dictates whether capital punishment is to be considered cruel and unusual - and therefore illegal - which makes public opinion about the death penalty vital to its continued existence in the United States.<sup>7</sup> In *Weems v. United States* (1910), the court decided that cruel and unusual punishment, “in the opinion of the learned commentators, may be therefore progressive, and is not fastened to the obsolete, but may acquire meaning as public opinion becomes enlightened by a humane justice.”<sup>8</sup> Later, the same was asserted in *Trop v. Dulles* (1958) when the court wrote, “The... [the Eighth Amendment]... must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.”<sup>9</sup> *Furman v. Georgia* referenced both of these cases and reaffirmed this position. The perceived attitudinal changes of the public towards capital punishment contributed to the decision in *Furman v. Georgia* to impose a moratorium on the death penalty. This was not concluded based solely on public opinion polls, as the Supreme Court found such polls to not be specific enough or demonstrate comprehensive understanding of the topic. However, the Supreme Court nevertheless found enough of the public to be in opposition of the death penalty to constitute its moratorium.

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<sup>7</sup> Vidmar, N., & Ellsworth, P. (1974). Public Opinion and the Death Penalty. *Stanford Law Review*, 26(6), 1245-1270. See also Bohm, R. M. (2003). American Death Penalty Opinion: Past, Present, and Future. In J. Acker, R. M. Bohm, & C. S. Lanier (Eds.), *America's Experiment with Capital Punishment: Reflections on the Past, Present, and Future of the Ultimate Penal Sanction* (pp. 27-54). Durham, NC: Carolina Academic Press

<sup>8</sup> *Weems v. United States*. 217 U.S. 350 (1910). *Justia*.

<sup>9</sup> *Trop v. Dulles*, 356 U.S. 101 (1958). *Justia*.

Therefore, if the majority of the public were to again oppose the death penalty, the courts may again impose a moratorium or abolish capital punishment due to this precedent.<sup>10</sup>

The court also imposed the moratorium on the basis of the arbitrary nature of who received the death penalty. In an oft-cited quote, Justice Potter Stewart wrote that “death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual.”<sup>11</sup> This reflected the majority opinion, as many of the Supreme Court Justices had found that there was no objective legal justification within states that determined who was sentenced to death row versus life in prison or a lesser conviction. The process was entirely too subjective. The court established a moratorium on the death penalty on the grounds that the states needed to devise criteria for death sentences. States rushed to revise their death penalty statutes, with Utah being the first to resume executions in 1977. Support for the death penalty had been growing since 1967. By 1976, support for the death penalty had risen to 66% (with 26% against it and 8% uncertain).<sup>12</sup> As public opinion waxed in support of capital punishment, executions resumed.

### **Tough on Crime Becomes the Golden Ticket: 1975-1999**

This signaled the second contemporary phase, in which a focus upon crime and punishment coincided with a renewed vigor for the death penalty. In the 1970s, amidst the Civil Rights Movement, the Chicano Movement and general civil unrest, politicians began campaigning on a platform of being “tough on crime” and emphasizing crime control. I specifically mention the civil society movements that coincided with this new rhetoric because racial otherization and outright racism are prolific in the crime control narrative generally and in death penalty sentences more specifically. An excellent example of the policies taken to control

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<sup>10</sup> This may be less likely due to the polarization of the current political climate. The Supreme Court is currently more conservative than liberal and may therefore work around this precedent should the situation even arise where enough Americans oppose the death penalty to bring this issue to court.

<sup>11</sup> Dieter, R. C. (2011). *Struck by Lightning: The Continuing Arbitrariness of the Death Penalty Thirty-Five Years After Its Re-Instatement in 1976*. *Death Penalty Information Center*. 1.

<sup>12</sup> *Gallup, Inc.* (2021). *In Depth*.

people of color and other subversives was in 1971 when President Nixon declared a “war on drugs.” His aide on domestic affairs, John Ehrlichman, later admitted:

“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people... We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news.”<sup>13</sup>

What this quote reveals is the politics of countersubversion, something that Michael Rogin discusses in detail.<sup>14</sup> Countersubversion has been a tactic used since the colonists to subdue political and cultural dissidents. The counterculture has been targeted and criminalized as a threat to the white hegemony. Marginalized groups became the villains and white people in the mainstream became the victims. As Simon writes in *Governing Through Crime*, “The nature of this victim identity is deeply racialized. It is not all victims, but primarily white, suburban, middle-class victims, whose exposure has driven waves of crime legislation.”<sup>15</sup> There is no separating racism from the war on crime and the corresponding crime control narrative.

There is debate about the effect of public opinion on the growing emphasis on crime control that began in the 1970s. Some authors argue that public opinion had little relation to the rising punitiveness.<sup>16</sup> Yet, politicians who were not seen as “tough on crime” were less likely to be voted into office from the mid-1970s to the 1990s, suggesting that if the public was not the source of the narrative, it was a contributing factor to crime control’s growing prominence in political rhetoric. A 1988 exit poll indicated that 27% of voters felt a candidate’s position on the

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<sup>13</sup> Baum, D. (April 2016). Legalize it All: How to Win the War on Drugs. *Harper's Magazine*.

<sup>14</sup> Rogin, M. P. (1986). “Ronald Reagan, the Movie and Other Episodes in Political Demonology” *Berkeley Journal of Sociology*.

<sup>15</sup> Simon, J. (2007). *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*. Oxford University Press.

<sup>16</sup> Matthews, R. (2005). The Myth of Punitiveness. *Theoretical Criminology*, 9(2), 175–201; Brown, Elizabeth K. (2006). “The Dog That Did Not Bark.” *Punishment and Society* 8(3): 287–312.

death penalty was “very important” to them. The crime control narrative aligns with Gallup data concerning the death penalty, as support grew and eventually peaked in 1994 at 80% in favor of the death penalty.<sup>17</sup> In conjunction with rising support came increased numbers of executions, with 98 prisoners executed in 1999 (the highest number of executions since 1951).<sup>18</sup> As punitive sentiments flourished in the United States, so did incarceration. Enns notes that the United States incarcerates a greater percentage of its population than any other country in the world, a trend that began in the 1970s.<sup>19</sup> In his statistical analysis of increased incarceration, Enns argues that public opinion led, not followed, this trend of crime control.<sup>20</sup> With levels of public support for the death penalty corresponding to both the moratorium on capital punishment in 1972 and increased punitiveness and crime control post-1976, the argument becomes stronger that public opinion is at least partially responsible for patterns in the criminal justice system. What we witness from this era are anxieties about crime, poverty and civil rights movements coming to the fore, leading the dominant culture of a fear-driven society to hurry to repress these elements, often through harsh punishment.<sup>21</sup> This trend of public opinion guiding policy continues into the third phase, from 2000 to 2021.

### **Support Wanes: 2000-2021**

The third phase of public opinion trends in this sixty year period is a gradual decline in support of capital punishment. Since the spike in support in 1994, there has been no year where support for the death penalty has risen above 70% and, in the four most recent years Gallup has

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<sup>17</sup> Gallup, Inc. (2021). In Depth.

<sup>18</sup> Snell, T. L. (1998). Capital punishment 1997. *US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*. See also Death Penalty Information Center. (2020). Death Penalty Information Center 2020 Year-End Report. *Death Penalty Information Center*.

<sup>19</sup> Enns, P. K. (2014). The Public's Increasing Punitiveness and its Influence on Mass Incarceration in the United States. *American Journal of Political Science*, 58(4), 857-872.

<sup>20</sup> Ibid. Also, see Jennings, W., Farrall, S., Gray, E., & Hay, C. (2017). Penal Populism and the Public Thermostat: Crime, Public Punitiveness, and Public Policy. *Governance*, 30(3), 463-481.

<sup>21</sup> Beckett, K., & Sasson, T. (2003). *The Politics of Injustice: Crime and Punishment in America*. Sage Publications.

data for, support has fallen to an average of 55.5% with opposition at an average of 41.75%.<sup>22</sup> There could be numerous reasons for this. One could be a rise in the publicity of wrongful convictions; for example, Illinois Governor George Ryan passed a moratorium on executions in 2000 because of many scandals involving wrongful convictions.<sup>23</sup> Gross, on the other hand, argues that support has gone down because the homicide and violent crime rates have gone down.<sup>24</sup> In fact, some scholars are even claiming the United States is seeing a shift towards decarceration.<sup>25</sup> They note the corresponding decrease in support for the death penalty and the even more notable decrease in *passion* about the death penalty. Pew Research Center polls conducted in 1994 and 2015 showed a decrease of 19% in support for the death penalty in general and a decrease in 36% of those who identified themselves as “strongly favoring” the death penalty. This put the percentage of Americans that “strongly favored” the death penalty at 23%, down from 59% in 1994. Likewise, executions have slowed down. In 2020, only 17 people were executed in the United States, a number that is indicative of the general decrease in executions that has been in effect since 1999.<sup>26</sup>

Through an examination of the support for the death penalty over the past sixty years, a clear trend emerges: when public opinion shows less support for capital punishment, executions slow down; when the public supports it, executions increase. If public opinion of the death penalty affects the practice of capital punishment and if popular culture shapes public opinion, then popular culture favoring or opposing the ideals of the death penalty may in turn affect the

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<sup>22</sup> Gallup, Inc. (2021). In Depth

<sup>23</sup> Zimring (2003) *Contradictions*. 160.

<sup>24</sup> Gross, S. R. (2018). The Death Penalty, Public Opinion, and Politics in the United States. *Saint Louis University Law Journal*, 62(4), 771. Gross notes that violent crime is now at a rate the U.S. hasn't seen since the 1960s.

<sup>25</sup> Bagaric, M., Wolf, G., McCord, D., Bagaric, B., & Fischer, N. (2021). American Exceptionalism at its Finest: "Soft on Crime" Now Vote-Winner in the World's Largest Incarcerator. *Lewis & Clark Law Review*, 25(2), 489-528; See also Canty, A. T. (2014). A Return to Balance: Federal Sentencing Reform after the Tough-on-Crime Era. *Stetson Law Review*., 44, 893.

<sup>26</sup> Amnesty International. (2021). Death Penalty in 2020: Facts and Figures. *Amnesty International*

practice of capital punishment. This is why studying film - one of the most prominent forms of popular culture - in relation to support for or against the death penalty provides insight about the potential future of the death penalty in the United States.

### **Pro- and Anti-Death Penalty Arguments**

With evidence that public opinion affects the prevalence of death sentences in the United States, the next most important question to ask is why Americans support or oppose the death penalty. In order to analyze popular culture texts for themes related to the death penalty, I needed to first know what these themes are. Figure 2 catalogs the ten arguments for and against the death penalty that I have found to be most prevalent in scholarship.

Figure 2.

<b>Anti-death penalty themes</b>	<b>Pro-death penalty themes</b>
Miscarriages of justice	Deterrence/ community safety/ incapacitation
Wrongful executions	Retribution
Discrimination	Victim-motivated justice
Empathy for the condemned	Dehumanization of the perpetrator
The cruel and unusual nature of death row	The leniency/ ineptitude of the criminal justice system

### **Anti-Death Penalty Frames**

To catalog what arguments are made most often in American scholarship regarding reasons to oppose the death penalty, I pulled the overarching themes from three books: *The Death of Innocents*; *Let the Lord Sort Them: The Rise and Fall of the Death Penalty*; and *Death at Midnight: Confessions of an Executioner*. The arguments put forth in these books are reflective of the broader arguments I've seen most commonly displayed in discussions of why the death penalty should be abolished. *The Death of Innocents* details Prejean's account of two

men's legal struggles following death penalty sentences and their eventual executions.<sup>27</sup> She has an intimate knowledge of their trials as the spiritual advisor of both. She narrates the trials, appeals process, and eventual execution of the two men - one Black, one white, both poor - whom she makes compelling arguments for as innocent. Chammah, the second author, also recounts the lives of two people - a defense attorney and a prosecutor of capital cases - who both came to oppose the death penalty after their experience observing failings within the criminal justice system.<sup>28</sup> The third author, Cabana, describes his time as a warden who worked in corrections for more than 25 years. His book documents his friendship with one of the inmates who, while not denying his guilt of the heinous crime for which he was convicted, was nevertheless redeemable and rehabilitated. Executing this man, whom Cabana considered his friend, caused Cabana to oppose the death penalty.<sup>29</sup> Each of these authors had an intimate relationship with the death penalty and came to oppose it as a result.

There are certain common themes in these narratives. The first is the highlight of miscarriages of justice. Prejean and Chammah document ways that defendants received unfair trials. Specific examples were lawyers falling asleep during the trial, experts making conclusive claims about inconclusive DNA, prosecutors burying evidence, appeals courts denying appeals on technicalities, judges sentencing equally culpable perpetrators of the same crime to different sentences and bribed informants perjuring themselves to the detriment of the defendant. Miscarriages of justice were found in legal representation, the original trial, subsequent appeals, the governor pardoning system and Supreme Court decisions.

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<sup>27</sup> Prejean, H. (2005). *The Death of Innocents: An Eyewitness Account of Wrongful Executions*. New York: Random House. See also Lilly, J. R. (2013). Counterblast: Death Penalty Resistance Revisited in the Post-Trust Era. *The Howard Journal of Criminal Justice*, 52(1), 108-114.

<sup>28</sup> Ibid, Chammah, M. (2021). *Let the Lord Sort Them: The Rise and Fall of the Death Penalty*. New York: Crown.

<sup>29</sup> Cabana, D.A. (1996). *Death at Midnight: The Confessions of an Executioner*. Boston: Northeastern University Press.

The second common frame was wrongful execution. Wrongful execution occurs when there is significant reason to believe that an executed person was innocent. Prejean advocates that both of the men she discusses in *Death of Innocents* were indeed innocent. What gives this credence is that she does not say the same about other death row inmates for whom she was the spiritual advisor. She is fully cognizant of the guilt of some of her other advisees. States are exceedingly reluctant to admit they have condemned the wrong person to death while they are alive and even more reluctant to grant them innocence post mortem. However, 1 in 9 of those sentenced to death row have been exonerated and released from death row since 1973.<sup>30</sup> Considering the difficulty of being granted a retrial on appeal, it is likely this number still does not reflect the true margin of error in convictions. Whether states want to admit it or not, they are executing innocent people.

The third frame common to each book was discrimination. People of color, people of lower socioeconomic status and people with mental disabilities constitute the majority of death row inmates. Despite composing only 12.4% of Americans, Black Americans are 41% of the individuals on death row, whereas white Americans are around 60% of the population and 42% of death row inmates.<sup>31</sup> It is estimated that between five and ten percent of death row inmates suffer from severe mental illness.<sup>32</sup> One of the men Prejean advises is a Black man with a mental handicap who she feels was discriminated against due to these factors. Chammah tells the stories of numerous death row inmates, most of whom are people of color or low socioeconomic status. The inmate who Cabana has a difficult time executing is also a Black man. Each book discusses discrimination in the institution of capital punishment and condemns the death penalty for its unequal treatment.

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<sup>30</sup> Equal Justice Initiative (2022). Death Penalty. *Equal Justice Initiative*.

<sup>31</sup> Death Penalty Information Center (2022). Racial Demographics. *Death Penalty Information Center*.

<sup>32</sup> ACLU (2022). Report: Mental Illness and the Death Penalty. *American Civil Liberties Union*.

The next frame I documented as a common thread in the literature was empathy for the condemned. One of the key arguments against the death penalty is that the people being killed have been or could be rehabilitated. One such case brought up by Chammah was Karla Faye Tucker from Texas who had murdered two people with a pickaxe. At the time, she had been under the influence of drugs and had been coping with a traumatic upbringing. After 14 years on death row, she was finally executed. However, by this time, she was a fully changed woman. She converted to Christianity and the guards and people who worked with her vouched that she was no longer a violent person. Her story became so inspirational that *60 Minutes* even interviewed her. The governor did not pardon her, and she was executed. Stories like these induce empathy for the condemned because they show the defendant in their full human capacity. Many death row inmates have similar experiences. They committed crimes that they would no longer commit, typically under external and internal duress. I call this frame empathy for the condemned because knowing about the mitigating factors, traumatic experiences and rehabilitation of these individuals builds empathy for them.

The final frame I noted as most prevalent in the literature against the death penalty is that the death penalty is cruel and unusual. Opponents of the death penalty cite the mental anguish and uncertainty of being on death row as well as the anguish of the families of the condemned as what makes it cruel and unusual.<sup>33</sup> Furthermore, they argue that executions do not bring closure to most families of the victims, thereby causing pain and suffering on the condemned and their families without lessening the suffering of the victims' families. These are the grounds for opposition to the death penalty that most authors of anti-death penalty literature put forward. I

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<sup>33</sup> Chammah (2021). *Let the Lord Sort Them*. See also Hartnett, S. J., & Larson, D. M. (2006). "Tonight Another Man will Die": Crime, Violence, and the Master Tropes of Contemporary Arguments about the Death Penalty. *Communication and Critical/Cultural Studies*, 3(4), 264.

categorize these themes as miscarriages of justice; wrongful executions; discrimination; empathy for the condemned; and the cruel and unusual nature of death row.

This does not, however, include all the possible arguments that could be made against the death penalty. For example, the argument that pursuing the death penalty actually costs more to the state and federal government than pursuing a life sentence without parole is true but is rarely the crux of anti-death penalty arguments.<sup>34</sup> When it shows up in death penalty literature, it occupies far less space than the themes of wrongful conviction or empathy for the condemned, suggesting that the cost of the death penalty is a less compelling argument to the general public. Perhaps the public does not want to appear so callous as to decide whether someone lives or dies based on cost.

Zimring notes two other arguments that are also rarely discussed in literature opposing the death penalty. These are (1) that capital punishment is a violation of human rights and (2) that capital punishment gives the government undue power. Zimring observes that the death penalty as a human rights issue is greatly emphasized in literature in the UK and Europe, but rarely gains any traction in United States discourse about capital punishment.<sup>35</sup> Similarly, Zimring is mindful that the death penalty is carried out by officials of the state. Yet, the states that are normally most in opposition to centralized government also tend to be the states that carry out the most executions. He explains this by saying these states see executions as the will of the community rather than state-sanctioned. As the concern about human rights, this argument does not show up often in the literature concerning reasons to oppose the death penalty. Rather, the majority of the discussion remains in the five arguments previously mentioned.

### **Pro-Death Penalty Frames**

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<sup>34</sup> Zimring (2003). *Contradictions*. 47

<sup>35</sup> *Ibid.*, 47

There are also five distinct themes that populate discussion of reasons to support the death penalty. The majority of literature that documents pro-death penalty sentiments does so by discussing what the pro-death penalty arguments are and then refuting them. Scholarly work where the author actually supports the death penalty is rare. In fact, Flanders, in his “Case Against the Case Against the Death Penalty” writes:

“This lack of prominent defenders of the death penalty is a puzzling state of affairs, and not least because of the large disconnect that exists between the academic mainstream and popular opinion. Usually, when there is strong public support for a measure, there are at least some academic backers, and not merely in the cocktail party sense of provocatively supporting the death penalty but actually taking a position in a law review article or a book. There is, again, little of this on display, especially in legal academia.”<sup>36</sup>

In the absence of literature from pro-death penalty scholars, the common arguments for the death penalty have been studied by researchers who are themselves, they claim, against the death penalty. This may not affect my research, but I find it important to recognize the difference between the source of anti-death penalty arguments - personal narratives - and pro-death penalty arguments - scholars interested in why people do support the death penalty - because it suggests more exposure to the topic correlates to less support for the death penalty (which is why films accurately portraying the death penalty could change public opinion about it).

I adopted from the frameworks of Ellsworth & Gross and Hartnett & Larson in my organization of pro-death penalty arguments. Ellsworth & Gross offer (1) deterrence and retribution, (2) cost, (3) incapacitation, and (4) emotions as the overarching themes of pro-death penalty arguments.<sup>37</sup> Hartnett and Larson categorized the arguments for the death penalty as (1) abhorrence of the criminal act, (2) closure for the victim’s family and community and (3)

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<sup>36</sup> Flanders, C. (2013). The Case against the Case against the Death Penalty. *New Criminal Law Review*, 16(4), 595-620.

<sup>37</sup> Ellsworth, P. C., & Gross, S. R. (1997). Hardening of the Attitudes: Americans Views on the Death Penalty. In Bedau, H. A. (Ed.). (1998). *The Death Penalty in America: Current Controversies*. Oxford University Press. 90-115.

leniency of the criminal justice system. With these overarching frameworks in mind, I will now explain how I organized these concepts into five frames for pro-death penalty arguments.

My first frame for pro-death penalty arguments is community safety/ deterrence/ incapacitation. I therefore reorganized Ellsworth & Gross' themes as well as took from part of Hartnett & Larson's second category. The notion that the death penalty deters violent crime, although unfounded, is a commonly held belief by the public. In fact, in 1983, it was the most frequent rationale given for support of capital punishment.<sup>38</sup> I group deterrence, incapacitation and community safety together because the thrust of each of these arguments is that the death penalty protects the community. Community safety is one of the most compelling arguments for many Americans. Tyler & Boeckmann theorize that violent crimes threaten social bonds and moral cohesion and that the death penalty is an expression of the will of the community to restore order.<sup>39</sup> Deterrence/ incapacitation/ community safety is therefore my first frame of pro-death penalty frame.

Ellsworth & Gross' framework presents cost as its second frame; I do not adopt this frame. "Cost" refers to the misplaced belief that the death penalty is a cheaper option, which a significant minority of Americans believed in 1997 - between 21% and 38%.<sup>40</sup> However, looking up the cost of the death penalty versus life in prison is easy to do and would invalidate this belief. For this reason, I do not think it will show up in enough popular culture texts to be a viable theme for which to look. Nor do I believe the cost of life imprisonment to be integral to a person's support for the death penalty considering the average cost for a death sentence in Texas is about \$2.3 million, which is close to three times the cost of imprisoning someone in a single

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<sup>38</sup> Ellsworth, P. C., & Ross, L. (1983). Public Opinion and Capital Punishment: A Close Examination of the Views of Abolitionists and Retentionists. *Crime & Delinquency*, 29(1), 140.

<sup>39</sup> Tyler, T. R., & Boeckmann, R. J. (1997). Three Strikes and You Are Out, but Why: The Psychology of Public Support for Punishing Rule Breakers. *Law & Society Review*, 31(2), 237-266.

<sup>40</sup> Ellsworth & Gross (1997). Hardening of the Attitudes. 30.

cell at the highest security level for 40 years, yet support for the death penalty in Texas has not waned, and Texas consistently executes people at higher rates than most states.<sup>41</sup> I therefore do not think Americans truly care about cost in regards to the death penalty and because of this, it not one of my considerations.

“Emotions,” as defined by Ellsworth & Gross, refers to opinions formed on the basis of emotions rather than logic, such as personal outrage at murder. Rather than place retribution and deterrence together as Ellsworth & Gross did, I believe retribution should fall under the emotions category, as the driving force behind retribution is personal outrage, whereas the driving force behind deterrence is community safety. Emotions - specifically retribution - fall under Hartnett & Larson’s theme of abhorrence of the criminal act, as this category is particularly interested in emotive responses to heinous crime. The belief that the perpetrator should pay for their crime is the general thrust of this frame, which I simply refer to as “retribution.”

To continue with Hartnett & Larson’s framework, their second category focuses on closure for the victim’s family and community through execution. This is similar to the deterrence/ incapacitation/ community safety category and the retribution category in that it is in a way both an emotive and community-safety propelled response, but differs in that its focus is on the victim and the victim’s family. Another scholar, Lynch, lends support to this frame as she finds the foci in online pro-death penalty platforms to be a focus on the victims and an emphasis of the death penalty as the only legitimate form of justice for the victim.<sup>42</sup> I therefore call this, my third frame, “victim-motivated justice.”

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<sup>41</sup> Texas Catholic Conference of Bishops. “Facts on the Death Penalty.” *Texas Catholic Conference of Bishops*. Texas is just one example. Statistics across states show the death penalty to be significantly more expensive than life imprisonment.

<sup>42</sup> Lynch, M. (2002). Capital Punishment as Moral Imperative: Pro-Death-Penalty Discourse on the Internet. *Punishment & Society*, 4(2), 213–236.

Another common theme in pro-death penalty reasoning is dehumanization of the perpetrator. Lynch found that there was no discussion in these online forums of the miscarriages of justice that constitute unfair trials or executions of innocent inmates, as those convicted of murder and sentenced to death were no longer seen as people. Indeed, Ellsworth & Ross found when asking people why they supported the death penalty, their respondents stripped murderers of their individuality:

“There is no reason for the person to consider the problem of drawing distinctions among murderers. What matters is one’s belief that murderers deserve to die; it does not matter which ones die. In expressing the attitude it is possible that people think of some undifferentiated prototypical murderer, and that only a minuscule fraction of actual murderers resemble this prototype.”<sup>43</sup>

In this way, supporters of the death penalty remove the human element of murderers and classify all murderers as all the same evil prototype. I call this frame “dehumanization of the perpetrator.”

Finally, Hartnett & Larson’s third category of pro-death penalty frames is that the criminal justice system fails in its pursuit of justice because of its leniency for criminals. This corresponds to Herbert Packer’s “Two Models of the Criminal Process,” in which he discusses the due process model and the crime control model.<sup>44</sup> The due process model’s ultimate goal is to make sure each person receives a fair trial. The crime control model places the repression of criminal conduct as its primary goal. This means sacrificing precision for quantity, and Packer describes the process in this model like a conveyor belt. The crime control model is aligned with the pro-death penalty argument that the criminal justice system is inefficient. A common fear is that without a capital sentence, a convicted murderer will eventually re-enter society and potentially endanger more lives. This belief of criminal justice system failure marks the fifth and

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<sup>43</sup> Ellsworth & Ross (1983) *Public Opinion and Capital Punishment*. 168.

<sup>44</sup> Packer, H. L. (1964). Two Models of the Criminal Process. *University of Pennsylvania Law Review*, 113(1), 1-68.

final theme of pro-death penalty arguments, which I call “leniency/ ineptitude of the criminal justice system.”

To summarize, I simplify this wide array of pro-death penalty sentiments into the following: deterrence/ community safety/ incapacitation; retribution; victim-motivated justice; dehumanization of the perpetrator; and the leniency of the criminal justice system. I next transition into how pro-death penalty values and vigilantism may be connected as I provide the background for my decision to look to vigilantism as connected to American commitment to the death penalty.

### **Vigilantism as Connected to the Death Penalty**

The process of understanding vigilantism as connected to the death penalty requires first an awareness of what vigilantism is, specifically in the U.S. context. In defining vigilantism, I partially borrow from Johnston. His six criteria for vigilantism are: (i) it is premeditated; (ii) it is a form of autonomous citizenship and, therefore, a social movement; (iii) it threatens and/or uses force; (iv) it arises when an established order is under threat from the transgression, the potential transgression, or the imputed transgression of institutionalized norms; (v) it aims to control crime or social deviance by offering guarantees of security; (vi) and the actors who engage in it are private citizens who do so willingly.<sup>45</sup> I cite Johnston because his is one of the most widely accepted definitions of vigilantism. However, I reject his sixth criterion partially. He specifies that police, whether acting on or off duty, can never engage in vigilantism. However, I argue that when one goes beyond the law, one is no longer an agent of the state and is therefore acting as a private citizen. Furthermore, this definition would preclude an abundance of films that have been designated “vigilante” films by other scholars.<sup>46</sup> Finally, in the United States, law enforcement

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<sup>45</sup> Johnston, L. (1996). What is Vigilantism?. *The British Journal of Criminology*, 36(2), 220-236.

<sup>46</sup> Welsh, A., Fleming, T., & Dowler, K. (2011). Constructing Crime and Justice on Film: Meaning and Message in Cinema. *Contemporary Justice Review*, 14(4), 463; See also Asimow, M. (2020). American

have often acted as vigilantes, even abetting lynch mobs.<sup>47</sup> The history of racial discrimination in the United States necessitates that certain members of law enforcement be considered vigilantes. I therefore consider his sixth point moot for the purposes of this essay.

Vigilantism in the United States is historically connected to segregation, racism, and subjugation of minorities within society.<sup>48</sup> It has antecedents in the “Cowboys and Indians” trope and lynching mobs throughout the nineteenth and twentieth centuries. Although vigilantes are often portrayed as heroes (if but conflicted heroes), the rise of vigilantism in the United States is thoroughly connected with a history of racial discrimination, as vigilantes tend to be from the dominant culture acting against minorities.<sup>49</sup> This history continues to play a role in vigilante films and narratives.

The racial discrimination that characterized American vigilantism is key to its connection to the death penalty. Zimring offers perhaps the most robust account on this point.<sup>50</sup> He explains that there is a correlation between the regions of the country that lynched the most people and the regions of the country that execute the most people. These lynchings overwhelmingly targeted African Americans (73%) and Native Americans, although Mexican Americans and Mexican immigrants were also the targets of lynchings.<sup>51</sup> Lynchings in the United States between 1889 and 1918 (the high water mark of American lynchings) were distributed as follows: 88% in the South; 7% in the Midwest; 5% in the West; and .03% in the Northeast. Almost identical figures exist for executions between 1977-2000: 81% in the South; 10% in the Midwest; 8% in the West;

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Vigilantism—Popular Justice and Popular Culture. *Vigilante Justice in Society and Popular Culture: A Global Perspective*. 1,9.

<sup>47</sup> Jones, B. & Mendieta, E. (2021). Police Ethics After Ferguson. In Jones, B & Mendieta, E (eds.) (2021). *The Ethics of Policing: New Perspectives on Law Enforcement*. New York: New York University Press. pp. 1-22.

<sup>48</sup> Embrick, D. G. (2015). Two Nations, Revisited: The Lynching of Black and Brown Bodies, Police Brutality, and Racial Control in ‘Post-Racial’ Amerikkka. *Critical Sociology*, 41(6), 835–843.

<sup>49</sup> See Hing, B. (2002). Vigilante Racism: The De-Americanization of Immigrant America. *Michigan Journal of Race & Law*, 7(2), 441-456 for more information on vigilantism in post 9/11 American society.

<sup>50</sup> Zimring (2003). *Contradictions*

<sup>51</sup> *Ibid*, pp. 90.

and .05% in the Northeast.<sup>52</sup> In summation, states with a history of racially-moderated vigilantism and slavery have the highest rates of execution.

Messner, Baumer & Rosenfeld responded to Zimring's call for further research on the connection between vigilante history and the practice of capital punishment. Their study found that white participants who lived in states with a history of frequent lynching were significantly more likely to show support for the death penalty.<sup>53</sup> This is an important distinction to make, as white Americans are more likely to support the death penalty than Black Americans in general and are significantly more likely to do so in states with a history of lynching.<sup>54</sup> Thus, there is other research that analyzes the connection between vigilante values and support for capital punishment and this research suggests a racially-moderated and inflected relationship.

Vigilantism and support for the death penalty also seem to both be informed by retribution and victim-motivated justice. Schadt & DeLisi found that a majority of college students supported some form of vigilante-motivated violence as a response to the victimization of their family.<sup>55</sup> 80% affirmed that they would be tempted to hurt someone who hurt their family and 10.3% claimed that they would kill the person who hurt their family. The researchers used these findings to speculate that a desire for vigilante justice could be on the minds of students when they consider capital punishment.<sup>56</sup>

A multitude of factors seems to inform the connection between capital punishment and vigilante history, and racially-motivated vigilantism is but one symptom of a larger ailment in American history. Conceptions of American vigilantism and capital punishment are both by-products of inter-racial hostilities and the nature of decentralized government in the United

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<sup>52</sup> Ibid, pp 94.

<sup>53</sup> Messner. (2006). Distrust of Government

<sup>54</sup> Bobo, L. D., & Johnson, D. (2004). A Taste for Punishment: Black and White Americans' Views on the Death Penalty and the War on Drugs. *Du Bois Review: Social Science Research on Race*, 1(1), 151-180.

<sup>55</sup> Schadt & DeLisi (2007). Is Vigilantism on your Mind?

<sup>56</sup> Ibid.

States. Other by-products of this include “high rates of homicide... a masculine culture of honor-violence; widespread gun ownership; and a cultural fascination with violence.”<sup>57</sup> By examining how certain cultural frames are present in both vigilantism and the death penalty, one can better understand these broader historical legacies in general.

### **The Effect of Films on Culture and Culture on Films**

I chose to explore these connections between vigilantism and capital punishment through film because the stories with which a community entertains itself are invaluable tools for understanding its culture. Furthermore, the arguments put forward in films can affect or be affected by public opinion. These stories both inform and mirror a community’s values, ideals and ways of understanding itself. Indeed, there is a vast scholarship about such relationships between popular culture and the law.

Popular culture about legal themes is a source of entertainment but also a source of knowledge and identity formation. The messages in films inform and reflect the values currently held by society. After all, films are made with the intention of reaching audiences, and content that does not resonate with some measure of public opinion may find this goal challenging. Sarat writes, “Mass-mediated images are as powerful, pervasive, and important as are other early twenty-first-century social forces - for example, globalization, neocolonialism, and human rights - in shaping and transforming legal life.”<sup>58</sup> Other scholars also point out the value of studying legal film, noting that films about crime, for example, reflect society’s social anxieties, criticisms and ideals. These anxieties show up in the way society is imagined in film and the truths about society that these films take for granted.<sup>59</sup> Films about law exist as a medium through which

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<sup>57</sup> Garland, D. (2010). *Peculiar institution: America's Death Penalty in an Age of Abolition*. OUP Oxford. 189.

<sup>58</sup> Sarat, A. (2011). What Popular Culture Does For, and To, Law: An Introduction. In Sarat, A. *Imagining Legality: Where Law Meets Popular Culture*. Tuscaloosa: University of Alabama Press, 1.

<sup>59</sup> Rafter, N. (2006). *Shots in the Mirror*. New York: Oxford University Press, 1-21. Also see Reiner, Robert (2002) *Media Made Criminality: The Representation of Crime in the Mass Media*. In: Reiner, Robert, Maguire,

societies can express judgment of how their legal system is run, reconfiguring understanding of the world.<sup>60</sup> Furthermore, film is not just a depiction of law, but an agent of law, just as law is an agent of culture.<sup>61</sup> Ultimately, films - and, more specifically, films that deal with some aspect of the legal world - form a basis of identity formation in society, just as oral storytelling, literature, and other forms of cultural expression might.

The medium of film has shifted the focus from production of culture to consumption of culture, but, as Manderson points out, film is still a site of resistance to formal law.<sup>62</sup> In using the show *24* to illustrate his argument, he reveals that popular culture texts often show the world not as it is, but as it could be or as we believe it is. The protagonist of *24* uses extralegal force to fight terrorism, with his torture tactics always yielding the necessary information and his judgment always sound, suggesting the necessity of acting outside the confines of the legal system in order to guarantee community safety. Even when what is on the screen does not align with reality, the willingness to believe this narrative resonates with the public, even causing Former Supreme Court Justice Antonin Scalia to cite *24* when he defended the use of extralegal action (i.e. torture) by government agents in self-defined emergencies. Manderson's work depicts how popular culture can influence and reflect societal beliefs, as it indulges in the fantastical narratives of non-corrupted vigilante crime control.

Films about the death penalty seem to resonate strongly with viewers, further underscoring the importance of the relationship between popular culture texts and societal understandings. Till & Vitouch (2012) observed the effect of viewing death penalty films on

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Mike and Morgan, Rod, (eds.) *The Oxford Handbook of Criminology*. Oxford University Press, Oxford, UK, pp. 302-340 for further discussion of media technology's increasingly direct role in social control.

<sup>60</sup> Silbey, J. (2007). Truth Tales and Trial Films. *Loyola of Los Angeles Law Review* 40(2), 551-588.

<sup>61</sup> Mezey, N. (2011). Law's Visual Afterlife: Violence, Popular Culture, and Translation Theory. In Sarat, A. *Imagining Legality: Where Law Meets Popular Culture*. Tuscaloosa: University of Alabama Press.

<sup>62</sup> Manderson, D. (2011). Trust US Justice: '24', Popular Culture and the Law. In Sarat, A. *Imagining Legality: Where Law Meets Popular Culture*. Tuscaloosa: University of Alabama Press 22-52.

opinions about the death penalty. They found that after viewing two films where the protagonist was executed without a scene showing the execution itself, approval of the death penalty decreased for these participants.<sup>63</sup> This suggests that films on capital punishment may have very real consequences for public sentiment. Sarat et al. posit that viewing films about capital punishment gives the audience a backstage pass to an event that otherwise exists outside the realm of everyday life.<sup>64</sup> The intimate understanding of the death penalty that these films can give can make viewers feel more personal responsibility for retaining capital punishment and question their own beliefs about the death penalty. Sarat et al. conclude that viewing these movies can affect public opinion, although the extent to which it does so is unknown.

Finally, a small-sample study of two college campus classes of 42 and 25 students found that learning about the actual practice of the death penalty and watching a corresponding film about the death penalty led to decreased support for capital punishment.<sup>65</sup> In the first class, which had 42 students, support before viewing the film was higher than support after viewing the film, with those who were more moderate in the first place experiencing the greatest change in opinion. Likewise, in the class of 25 students, support decreased by almost half, suggesting that public opinion can be significantly altered by popular culture texts.<sup>66</sup> For this reason, analyzing film is important as it can affect public opinion. This leads into the final section of this literature review, which specifically outlines the current research that scholars have conducted concerning films about the death penalty and vigilante justice.

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<sup>63</sup> Till, B., & Vitouch, P. (2012). Capital Punishment in Films: The Impact of Death Penalty Portrayals on Viewers' Mood and Attitude toward Capital Punishment. *International Journal of Public Opinion Research*, 24(3), 387-399.

<sup>64</sup> Sarat, A., Chan, M., Cole, M., & Lang, M. (2014). Scenes of Execution: Spectatorship, Political Responsibility, and State Killing in American Film. *Law & Social Inquiry*, 39(3), 690-719.

<sup>65</sup> Mannes, S., & Ingaglio Jr, R. (2015). A Film is Worth a Thousand Words: The Impact of Film, Need for Cognition, and Experiential Thinking on Attitudes towards the Death Penalty. *North American Journal of Psychology*, 17(2).

<sup>66</sup> Ibid. 362-365.

## Current Research on Films about the Death Penalty and Vigilantism

While the field of literature about vigilante and death penalty films is not entirely barren, there is little that addresses the two genres in conjunction or the specific themes that are present within these genres as relating to the pro- and anti-death penalty frames I have selected. I will therefore give a relatively brief overview of what the literature *has* studied and position this thesis within that broader framework.

O'Sullivan theorizes that Hollywood films about the death penalty that circulated in the nineties represented a conscious desire on the part of filmmakers to circulate anti-death penalty sentiments to the public.<sup>67</sup> In analyzing the messages of *Dead Man Walking*, *The Green Mile*, *Last Dance*, *The Chamber*, and *True Crime*, O'Sullivan highlights empathy for the condemned, the cruel and unusual nature of death row, miscarriages of justice, wrongful executions, and discrimination - all five of the themes I have flagged as anti-death penalty sentiments. Moreover, he acknowledges that pro-death penalty sentiments are mixed in as well, pointing to the tough on crime atmosphere of the period. O'Sullivan argues that films during this decade spread unsympathetic messages about the death penalty which could have affected public opinion.

Sarat uses some of the same films as O'Sullivan to reach the alternate conclusion that these films do not do enough to make viewers question capital punishment and at most make the audience sympathetic to a particular case, not antagonistic to the institution as a whole.<sup>68</sup> However, the degree to which these films influence public opinion about the death penalty is not important for this thesis as long as there is reason to believe some effect is taking place, as the priority is first and foremost to see what arguments these films present and how this has changed

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<sup>67</sup> O'Sullivan, S. (2003). Representing the Killing State: The Death Penalty in Nineties Hollywood Cinema. *Howard Journal of Criminal Justice*, 42(5), 485-503; see also Sarat, Chan, Cole, & Lang. (2014). Scenes of Execution.

<sup>68</sup> Sarat, A. (2018). *When the State Kills: Capital Punishment and the American Condition*. Princeton University Press.

over time. These studies provide apt and useful analyses of some of the films about capital punishment, although discussion of films pre- or post- the 1990-1999 period is noticeably absent.

Literature investigating the vigilante film genre suggests that the pro-death penalty frames I identified earlier play a significant role in the contours of the genre. Bailey's analysis of 88 films within the vigilante film category finds common themes throughout the genre, these being: a broken legal system (therefore requiring vigilante intervention); vengeance; and justice served only once the perpetrator is dead or humiliated.<sup>69</sup> Likewise, Asimow conducts similar research while focusing specifically on police vigilante films. His takeaways are that these films put forward politically conservative ideas, disregard due process, and dehumanize the perpetrators by presenting them as one-dimensional, blood-lusting criminals.<sup>70</sup>

Welsh similarly analyzes 30 films within the vigilante film genre and remarks on the common theme of the perpetrators being social outsiders, showing promise that my frame of dehumanization of the criminal is likely present in these films. Surprisingly (in as much that these themes stray from the pro-death penalty position to the anti-death penalty position), he also notes the themes of reconciliation or forgiveness, and a lack of resolution from killing the perpetrator in certain films.<sup>71</sup> Naturally, I expected to find some vigilante films expressing some or many of the anti-death penalty sentiments, just as I expected the converse to be true. These studies suggest that vigilante film tropes are almost identical to many of the pro-death penalty frames I categorized earlier, and some of the anti-death penalty frames as well.

Finally, Bettwy compares the vigilante genre and the death penalty genre as opposing sides of the debate about capital punishment. This gives credence to my decision to analyze the

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<sup>69</sup> Bailey, F. (1993). Getting Justice: Real Life Vigilantism and Vigilantism in Popular Films. *Justice Professional*, 8(1), 33-51.

<sup>70</sup> Asimow (2020). *American Vigilantism*.

<sup>71</sup> Welsh (2011). *Constructing Crime and Justice on Film*

two in conjunction with one another. However, the focus of Bettwy's research is on comparisons of American films with European films that espouse death penalty sentiments.<sup>72</sup> The findings of this study are therefore couched in the comparison of film in the United States and Europe rather than the comparison of death penalty and vigilante films, but it is nevertheless promising that she compared and contrasted the two genres. Bettwy breaks the principles in support of the death penalty into the categories of incapacitation v. rehabilitation; retribution v. revenge; and deterrence. This includes two of the pro-death penalty sentiments for which I watched (remembering that my model combines incapacitation and deterrence), but excludes dehumanization of the perpetrator, leniency of the criminal justice system and victim-motivated justice. Similarly, Bettwy lists the principles that oppose the death penalty as risk of executing the wrong person; the death row phenomenon and brutality of executions; and the death penalty being fundamentally unjust, apart from practical considerations, making it inherently immoral.<sup>73</sup> What she calls the death row phenomenon equates to what I call the cruel and unusual nature of death row. Again, this breakdown reflects two of my themes, but neglects to include discrimination, empathy for the condemned, and miscarriages of justice. Furthermore, my categories toy with the concept of capital punishment being unjust - i.e. my category of discrimination or miscarriages of justice - but do not venture past into the territory of morality like Bettwy's. Due to these significant departures in research design, scope and purpose, I used Bettwy's research as a model from which to learn, but not to adopt.

## **Conclusion**

Existing scholarship makes clear that public opinion affects execution rates and that the drastic shifts in public opinion over the past sixty years have in turn corresponded with the

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<sup>72</sup> Bettwy, D. (2011). The United States-Europe Death Penalty Debate: Comparison on Filmic Apologists. *Southwestern Journal of International Law*, 17(1), 1-62.

<sup>73</sup> Bettwy. (2011) The United States - Europe Death Penalty Debate. pp. 6-7.

frequency of state-sanctioned executions in the United States. Furthermore, film acts as both an informant and reflection of public opinion, suggesting that the relationship between public opinion and the death penalty can be explored through film. I have presented a framework through which to catalog the most established pro- and anti-death penalty sentiments in the United States. I therefore position myself within this literature as continuing the work of Zimring by exploring the relationship that exists between vigilantism and continued support for the death penalty.

### **Research Design**

In order to investigate the pro- and anti-death penalty themes presented in films about the death penalty and vigilante justice, I conducted inductive research relying on interpretive methods. I watched films from three time periods and created a comprehensive list of which of the ten frames I outlined in the literature review are present in each film. I analyzed 34 films in total, with between eleven and twelve films from each time period split evenly between the two genres. From among these 34, I chose twelve on which I did a deeper analysis. Through this content analysis, I conducted qualitative research that helped to examine the connection between vigilantism and the death penalty.

### **Periods**

I focused on three intervals: 1960-1975; 1976-1999; and 2000-2021. The first ten films came from 1960-1975, with the exception of the death penalty movie *I Want to Live!*, which was released in 1958. This exception was made because of its prevalence in literature about death penalty films and because there are extremely limited choices in death penalty films in this era. I preferred to extend the bounds of my time period rather than lose representation of the period. I

chose to bound this period between 1960 and 1975 because this was when public support for the death penalty was lowest (in the past 60 years).

The second time period I investigated was from 1976-1999 because this was the period with the most public support for the death penalty and the harshest views on crime control. Although this period is longer - 23 versus 15 years - than the first, I believed it was more important to group the periods by public opinion and cultural trends than by an arbitrary amount of years. This interval was marked by a steady increase in support for the death penalty, harsher punishments for crimes, and new hostility against historically-marginalized communities as they became more vocal.

Finally, I investigated contemporary trends by analyzing films from the 2000-2021 interval. I grouped these years into one period because support for the death penalty has been gradually declining throughout this stretch. Although there have been occasions during the past 21 years where crime control has been emphasized - specifically after 9/11 and again in the recent past with the Black Lives Matter movement and border control - this narrative is less virulent and bi-partisan than it was during the 1976-1999 period. I anticipated that the distinct policy shifts of the past 60 years as broken into the three periods I have outlined would be echoed in the sentiments of the films that were produced. It is for this reason that I researched the films by period in order to take into account shifts in public opinion and policy.

### **Qualifications for Film Selection**

In order to be considered a death penalty film for the purposes of this study, the film had to have three characteristics. First, it had to include at least one scene in prison or in court with the individual who was on death row. Second, the person(s) on death row had to be a significant character in the film, although being the main character was not necessary. This meant that the

person(s) to be executed showed up in multiple scenes, had dialogue, and had a running storyline. Third, the theme of state-sanctioned execution had to be salient in the film. This could mean that there was a constant threat of execution for the protagonist, that the protagonist was executed, or that one of the protagonist's colleagues was executed during the duration of the film. I applied these three criteria in order to eliminate films where the death penalty was not a structural focal point in the film.

Similarly, vigilante films used in this study had to have certain elements in common. First, the film had to feature a person who was looking to confront either a specific criminal or crime itself. Second, this person had to take some form of action against the crime/criminal(s). Third, the protagonist had to act outside of the criminal justice system even if they themselves were a member of the criminal justice system in some capacity. As with the qualifications for the death penalty films, this list ensured that the movies I viewed fit into the vigilante film category.

In deciding what films fit these criteria, I chose to use a combination of Rotten Tomatoes and IMDb as the sources from which I found the films I viewed. The reason I used both was because IMDb is not upfront with the algorithm by which it scores popularity because it is a proprietary algorithm. Although there are other metrics on IMDb such as number of votes and IMDb rating, the website is, again, very elusive in offering information on how they tabulate these scores. Therefore, I used the keyword search function of IMDb to find potential films and the ratings of Rotten Tomatoes - as Rotten Tomatoes does not have a keyword function - to choose the most popular films from the IMDb lists. Originally, I was going to use the keyword "death penalty" to find a comprehensive list of films about the death penalty, but after noticing this search did not pull some of the films about the death penalty specifically mentioned by other

scholars, I decided to use a list compiled by a user on IMDb called “Death Row Movies.”<sup>74</sup> I limited the scope on IMDb to “feature films” and “TV movies”. For vigilante films, I used the keyword “vigilante” and also only looked at “feature films” and “TV movies.” While there are certainly differences in the quality and production of TV movies versus feature films, these differences were not relevant when the purpose of my research was to simply find movies that had reached wide audiences, which is something films in either of these categories can do. The way a keyword is added to a certain title is by IMDb users submitting to IMDb that a keyword be added. I expect that using IMDb allowed me to find the majority if not all movies within my two genres.

I will also explain the scoring system on Rotten Tomatoes. The system tabulates critic and audience scores. When 60% or more of their scores from their certified professional critics is positive, the tomato is red, and when less than 60% are positive, the tomato is a green splat. The overall rating next to the tomato indicates what percentage of critic scores were positive. The audience score is the percentage of viewers who rated the movie a 3.5/5 or higher. If the percentage is above 60%, the popcorn bucket is “Fresh,” and if below, it is “Rotten.” While I preferred to use only “Fresh” scores, I was limited by the amount of films available - particularly for death penalty films - and so I tried to use the highest ratings available from the list of movies within each genre, even if the ratings weren’t designated “Fresh.” When using Rotten Tomatoes, sometimes there is only a critic or only an audience score, or no score at all; this indicates that not enough people have reviewed the movie. When the situation arose that one of these scores was missing, I disqualified movies without an audience score, but considered movies without a

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<sup>74</sup> I have not found a way to search for multiple keywords at once on IMDb and some films about the death penalty are only cataloged under “capital punishment” or “death sentence” rather than “death penalty.” I will therefore be cross-checking the movies that are pulled up with the “death penalty” keyword against the movies on the “Death Row Movies” user list to be certain I am not overlooking any possible films.

critic score.<sup>75</sup> This is because I only considered the audience score when I looked at ratings. How an average audience member viewed the movie was more important to my research than how a critic viewed it because I am looking at relationships between film and *public* opinion. Also, the minimum number of reviews a movie must receive in order to have an audience score is much higher than the minimum number for a critic score, thereby meaning that the audience score is more representative of a broader audience.

I also limited the scope of the films for both genres to films produced by an American studio that were about the United States. I chose to make this a criterion because the focus of my thesis is on American capital punishment and how it is presented and received by American audiences. A film made in France about capital punishment in France would not be evaluating the American court system, how it views criminality, or what popular sentiments exist toward it. I wanted to keep the films as specific to the United States as possible in order to best present the overarching themes about the death penalty in American popular culture texts.

Once I narrowed down the films to fit these qualifications, I made further decisions about which films to watch based on popularity and how often they showed up in previous scholarship. In regards to popularity being a factor, I thought it was important that any included film had a baseline level of viewership, as the films I chose were meant to be influencers of and influenced by public opinion. If the film was too obscure, it would likely have no effect on public opinion. Therefore, within each time period, once I narrowed down the films according to the previously mentioned criteria, my final decision in choosing which films to include in the study was based on the Tomatometer score Rotten Tomatoes had given the film. I did not set a baseline score but

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<sup>75</sup> The only caveat I make for this is the death penalty films from the 1960-1975 period, on account of how few there are.

the lowest audience score of any of the vigilante films was 62% and the lowest audience score of any of the death penalty films was 46%.<sup>76</sup>

I also looked at the number of ratings on Rotten Tomatoes. This was more of a determining factor for the vigilante films, as I tried to mainly stick to ratings that were based on 250,000+ reviews. However, for the death penalty films I didn't have much of a choice as the universe of films in this genre is very small. The below table shows the death penalty and vigilante films that I included (films without asterisks) as well as some of the films I didn't include as a reference to lower scores (films with asterisks).

Figure 3.<sup>77</sup>

<b>Film Title</b>	<b>Critic Score (%)</b>	<b>Based on how many reviews</b>	<b>Audience Score (%)</b>	<b>Based on how many reviews</b>
<i>I Want to Live</i> (1958)	93	15	83	1,000+
<i>Convicts Four</i> (1962)	---	0	46	50+
<i>In Cold Blood</i> (1967)	83	40	88	5,000+
<i>A Covenant With Death</i> (1967)	---	0	---	Fewer than 50
<i>The Execution of Private Slovik</i> (1974)	---	2	---	0
<i>The Executioner's Song</i> (1982)	---	1	74	500+
<i>The Thin Blue Line</i> (1988)	100	16	90	5,000+
<i>Dead Man Walking</i> (1995)	95	60	86	50,000+

<sup>76</sup> Excluding, again, the death penalty films that had no audience score that I had to include due to a lack of options.

<sup>77</sup> Retrieved from *Rotten Tomatoes* (2021). Accessed December 9, 2021.

<i>Last Dance</i> (1996)	32	22	50	5,000+
<i>The Chamber</i> (1996)*	12	25	39	5,000+
<i>The Green Mile</i> (1999)	78	134	94	250,000+
<i>True Crime</i> (1999)	54	41	49	10,000+
<i>Monster's Ball</i> (2001)	85	142	67	50,000+
<i>The Life of David Gale</i> (2003)	19	157	81	50,000+
<i>Monster</i> (2003)	81	190	81	50,000+
<i>The Paperboy</i> (2012)*	45	146	33	10,000+
<i>My Days of Mercy</i> (2017)*	90	20	---	100+
<i>Trial By Fire</i> (2018)	61	70	72	100+
<i>Extremely Wicked, Shockingly Evil, and Vile</i> (2019)*	54	182	57	1,000+
<i>Clemency</i> (2019)	91	152	65	50+
<i>Just Mercy</i> (2019)	85	306	99	10,000+
<i>Never Let Go</i> (1963)*	--	2	62	250+
<i>Hush... Hush, Sweet Charlotte</i> (1965)*	82	28	85	5,000+
<i>Batman</i> (1966)	79	33	62	100,000+
<i>The Wild Bunch</i> (1969)	90	63	90	25,000+
<i>Dirty Harry</i> (1971)	88	49	90	50,000+
<i>Coffy</i> (1973)*	79	24	75	5,000+

<i>Magnum Force (1973)</i>	70	27	77	25,000+
<i>Death Wish (1974)</i>	63	30	69	10,000+
<i>Carrie (1976)</i>	93	67	77	250,000+
<i>Taxi Driver (1976)</i>	96	94	93	250,000+
<i>A Nightmare on Elm Street (1984)</i>	95	55	84	250,000+
<i>Batman (1989)</i>	71	77	84	250,000+
<i>Falling Down (1993)*</i>	73	56	84	50,000+
<i>The Crow (1994)</i>	83	60	90	250,000+
<i>Desperado (1995)*</i>	67	48	79	100,000+
<i>The Boondock Saints (1999)</i>	28	29	91	250,000+
<i>Memento (2000)</i>	93	182	94	250,000+
<i>Kill Bill: Vol. 1 (2003)</i>	85	238	81	250,000+
<i>Man on Fire (2004)</i>	38	169	89	250,000+
<i>The Dark Knight (2008)</i>	94	345	94	250,000+
<i>Law Abiding Citizen (2009)</i>	26	162	75	250,000+
<i>Kick Ass (2010)</i>	76	268	81	250,000+
<i>Prisoners (2013)*</i>	81	254	87	100,000+
<i>Death Wish (2018)*</i>	18	164	71	5,000+
<i>Joker (2019)*</i>	68	588	88	50,000+

I also gave preference to films that I had already read about in scholarship concerning the death penalty and vigilante films. For example, *Dead Man Walking* (1995) and *I Want to Live* (1958) are commonly referenced death penalty films.<sup>78</sup> Likewise, *Dirty Harry* and *Death Wish* are some of the most common vigilante films mentioned by scholars.<sup>79</sup> In choosing films that had previously been discussed by other scholars and/or that had the highest ratings on Rotten Tomatoes, I attempted to avoid implicit bias in my decisions of which films to watch.

With these considerations in mind, for death penalty films from 1960-1975, I selected the only films that fit my criteria: *I Want to Live* (1958); *Convicts Four* (1962); *In Cold Blood* (1967); *A Covenant With Death* (1967); and *The Execution of Private Slovik* (1974). There are only five films from this time period that fit my criteria; it appears the death penalty was not a common theme in popular culture texts made in the United States at that time. The scarcity of films in this time period necessitated that I use films that have no Rotten Tomatoes ratings.

For death penalty films from 1976-1999, I decided between *The Executioner's Song* (1982), *The Thin Blue Line* (1988), *Dead Man Walking* (1995), *Last Dance* (1996), *The Chamber* (1996), *The Green Mile* (1999), and *True Crime* (1999). The astute reader may notice these films are concentrated in the mid to late 1990's rather than spaced out evenly from 1976-1999. This is because there were very few films made about the death penalty in the late 1970s and early 1980s. Although *The Executioner's Song* has not been discussed to a great extent in the literature I have reviewed, and has fewer reviews, I included this movie because it's important for my research that I include films from the full spread of the 1976-1999 interval as there could be

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<sup>78</sup> George, D., & Shoos, D. (2005). Deflecting the Political in the Visual Images of Execution and the Death Penalty Debate. *College English*, 67(6), 589. See also O'Sullivan, S. (2003). Representing the Killing State: The Death Penalty in Nineties Hollywood Cinema. *Howard Journal of Criminal Justice*, 42(5), 485, 490.

<sup>79</sup> Welsh, A., Fleming, T., & Dowler, K. (2011). Constructing Crime and Justice on Film: Meaning and Message in Cinema. *Contemporary Justice Review*, 14(4), 463; See also Asimow, M. (2020). American Vigilantism—Popular Justice and Popular Culture. *Vigilante Justice in Society and Popular Culture: A Global Perspective Forthcoming*. 1,9.

changes in the messages present in the first half of the period versus the latter half. Due to their popularity and the scholarly discussion they have created, I included *The Green Mile*, *Dead Man Walking*, and *The Thin Blue Line*. *True Crime* has a higher rating than *Last Dance* which has a higher rating than *The Chamber*. Considering the *Last Dance* is also the only film that features a female inmate instead of a male and is also more popular than *The Chamber* by a significant amount, I excluded *The Chamber* from my study.

For the 2000 to 2021 period, I decided between *Monster's Ball* (2001), *The Life of David Gale* (2003), *Monster* (2003), *The Paperboy* (2012), *My Days of Mercy* (2017), *Trial by Fire* (2018), *Extremely Wicked, Shockingly Evil, and Vile* (2019), *Clemency* (2019) and *Just Mercy* (2019). *Monster's Ball* was the only recognizable title from scholarship I had read, so I included that film. Since I decided the rest purely by rating, I omitted *Paperboy*, as it is the least popular film in this list. I omitted *My Days of Mercy* because it only has a critic rating - based off of 20 critic reviews - and no audience rating. Finally, I excluded *Extremely Wicked, Shockingly Evil and Vile* because of its low score in comparison to the other two films from 2019 and because I did not want three of my six 2000-2021 death penalty films to all come from 2019.

For vigilante movies, I chose films almost solely based on popularity and viewership on Rotten Tomatoes. IMDb listed 863 total feature films and TV movies. I used the popularity feature on IMDb as I assumed there would be some overlap of films that were popular on IMDb with films that had the highest ratings and viewership on Rotten Tomatoes. I chose the top seven to nine films from IMDb from each era to find the scores of on Rotten Tomatoes and chose the highest performing films from this abbreviated list to include in my thesis. The only films I automatically included were *Dirty Harry* and *Death Wish* as each had been mentioned in numerous pieces of scholarship.

## **Qualifications for Frames**

In conducting my research, I measured the prevalence of ten pro- and anti- death penalty frames in the two genres of films. I created a table showing how many and which frames each movie used. My expectation was that the death penalty movies would predominantly include anti-death penalty frames and the vigilante films would predominantly include pro-death penalty frames. By keeping this list, I was able to track the two genres across the three time periods and measure which frames were most commonly portrayed in these films. I will now explain each frame further to show what I considered to be presenting that frame.

The five frames on the anti-death penalty side are miscarriages of justice; wrongful executions; discrimination; empathy for the condemned/criminal; and the cruel and unusual nature of death row. I noted the miscarriage of justice frame whenever there was an inept attorney; the denial of a sound appeal; mishandled or omitted exculpatory evidence; bought witnesses or jailhouse informants; mendacious experts; or other situations where the defendant did not receive a fair trial. I considered the film to be presenting wrongful execution if the viewer was led to believe beyond reasonable doubt that the defendant was innocent. Even if the defendant was not actually executed, I considered wrongful execution to be present because the risk was there and the audience didn't know what would happen. I counted discrimination as any film that highlighted the disproportionate number of any of these groups on death row or in the criminal justice system more broadly either visually or through the dialogue in the film: people of color; people of lower socioeconomic status; people with previous criminal records; or people with mental disabilities. If the film specifically talked about racism, ableism, classism or another form of discrimination in the criminal justice system, that also counted for this sentiment. Empathy for the condemned or criminal is very subjective. Where one person might feel

empathy, another may be unable to distance the character from the crime. In the efforts of being objective, I defined this sentiment as being present when the condemned character was relatable and/or redeemable. This was through showing remorse for the crime, presenting the condemned as vulnerable and emotional, revealing childhood abuse or trauma, showing the family of the condemned grieving, or presenting mitigating factors. Finally, the cruel and unusual nature of death row was present wherever I saw some form of torture (emotional or physical). In existing literature about the death penalty, this argument is normally discussed in relation to the emotional distress of being on death row for both the condemned and the condemned person's family. Typically, this emotional distress comes from being on death row for extended periods of time due to appeals and living for years with death impending. Therefore, I included these scenarios as presenting this frame as well. This argument was also present if the film showed one person get sentenced to death while the other person who committed the same crime got life in prison because this represents the unusual nature of death row. This argument is focused on capital punishment's arbitrary nature and the cruelty of the institution.

The five frames I cataloged on the pro-death penalty side were: deterrence/ community safety/ incapacitation; retribution; victim-motivated justice; dehumanization of the perpetrator; and the leniency of the criminal justice system. I considered a film to be espousing the argument of community safety/incapacitation/deterrence if death was presented as the only option to stop the killer. It was also apparent in films where crime was running rampant, and the police force was unable to sufficiently protect the public or where killing criminals resulted in reduced crime. Whenever the film referred to the community and its safety, I noted this frame. The theme of retribution was shown when revenge was a motivating factor. I identified this sentiment by looking at the motivations for bringing the criminal to justice. Was it for community safety, or

was it the more primal urge of retribution or “getting what’s coming to you”? For victim-motivated justice, I looked for an emphasis on the victim and some form of acknowledgment that the victim would not be avenged or receive justice unless the person(s) who killed them was dead. I defined dehumanization of the perpetrator as being present when the perpetrator was demonized or shown to be lacking in normal human capacities. A common indicator of this frame were one-dimensional criminal characters who knew only violence and force. There was no attempt to give them a personality or any human emotions, and their crime was shown to be senseless, or motivated by greed/ violence. The audience could not relate to these characters because their only purpose was to kill. In some cases, this theme became literal and the criminals became quite literally no longer human, having been endowed with some type of supernatural or superhuman quality. Lastly, the leniency/ineptitude of the criminal justice system was present when the criminal was not caught, or the criminal was caught and released only to commit further crimes. Police officers or the courts were the objects of criticism. This theme emphasized the need for crime control over due process and highlighted the criminal justice system’s failings to bring the guilty to justice. This frame was the antithesis of the anti-death penalty frame of miscarriages of justice. While in both frames, the criminal justice system is at fault, in the one case it is too punitive and in the other, too lenient. There was overlap with some of these sentiments, but I attempted to stick to these set boundaries in order to accurately gauge how many pro-death penalty motivations these films espoused.

### **Measuring the Films**

My findings of the frames present in the films were operationalized into a table organized by era and genre. I indicated which of the ten sentiments were present in each film and gave a total score from -5 to 5. A five indicates that all five of the anti-death penalty sentiments were

present in the film and none of the pro-death penalty sentiments were. A negative five indicates that all of the pro-death penalty sentiments were present in the film and none of the anti-death penalty sentiments were. As an example, if there were five pro-death penalty sentiments and one anti-death penalty sentiment, the film received a -4 and if there were three anti-death penalty sentiments and two pro-death penalty sentiments, the film received a 1. The frames used are in relation to arguments for and against the death penalty. These frames came from literature about the death penalty. My data shows that the vigilante films I viewed overwhelmingly aligned with the pro-death penalty frames I am measuring, but these frames came from a framework based on arguments for and against the death penalty, not for and against vigilantism.

I watched the films in a randomized order based on my access to the film. I did not total the final score of the films until I had watched all the films. I therefore find no implicit bias on my part that may have looked for more frames in some movies than others. I simply presented what I saw, regardless of the era and had no preconceived notions of what the score trends would be. I used this table so that future studies can build off of this research and continue to analyze the themes in these genres of films in a slightly more quantifiable way. Although the majority of my research is qualitative, I chose to compile these composite scores for the purposes of organization and so that the audience could easily see significant trends by genre and era.<sup>80</sup>

Figure 4.

	Miscarriages of justice	Wrongful executions	Discrimination	Empathy for the condemned / criminal	Cruel and unusual nature of	Leniency/ Ineptitude	Community safety/ incapacitation / deterrence	Victim-motivated justice	Dehumanizing the perpetrator	Retribution	Total Score
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<sup>80</sup> *The Executioner's Song* has .5 written for miscarriages of justice. It is the only film to receive a half score. The reason for this is that it tells the story of the first man, Gary Gilmore, to be executed once Utah amended its capital punishment statutes following *Furman v. Georgia*. In the film, the lawyers are concerned about the constitutionality of executing Gilmore without the Supreme Court affirming that the new Utah statutes are in accordance with the law. Therefore, there is a question that there may be a miscarriage of justice, but the Supreme Court did later allow executions to resume, so technically Gilmore's execution was not a miscarriage of justice.

					death row						
<i>I Want to Live (1958)</i>	1	1	1	1	0	0	0	0	0	0	4
<i>Convicts 4 (1962)</i>	0	0	0	1	1	0	-1	0	0	0	1
<i>Batman (1966)</i>	0	0	0	0	0	-1	-1	-1	-1	0	-4
<i>In Cold Blood (1967)</i>	0	0	1	1	1	0	-1	-1	0	-1	0
<i>A Covenant with Death (1967)</i>	1	1	0	0	0	0	-1	0	-1	-1	-1
<i>The Wild Bunch (1969)</i>	0	0	0	0	0	-1	0	0	-1	-1	-3
<i>Dirty Harry (1971)</i>	0	0	0	0	0	-1	-1	-1	-1	0	-4
<i>Magnum Force (1973)</i>	0	0	0	0	0	-1	-1	0	-1	-1	-4
<i>The Execution of Private Slovik (1974)</i>	0	0	1	1	0	0	0	0	0	0	2
<i>Death Wish (1974)</i>	0	0	0	0	0	-1	-1	-1	-1	-1	-5
<i>Carrie (1976)</i>	0	0	0	0	0	-1	0	0	-1	-1	-3
<i>Taxi Driver (1976)</i>	0	0	0	0	0	0	0	-1	-1	0	-2
<i>The Executioner's Song (1982)</i>	.5	0	1	1	0	0	-1	0	0	0	1.5
<i>A Nightmare on Elm Street (1984)</i>	0	0	0	0	0	-1	-1	0	-1	0	-3
<i>The Thin Blue Line (1988)</i>	1	1	0	1	1	0	0	0	0	0	4
<i>Batman (1989)</i>	0	0	0	0	0	-1	-1	-1	-1	-1	-5
<i>The Crow (1994)</i>	0	0	0	0	0	-1	0	-1	-1	-1	-4
<i>Dead Man Walking (1995)</i>	1	0	1	1	1	0	0	-1	-1	-1	1
<i>Last Dance (1996)</i>	1	0	1	1	1	0	0	-1	0	0	3
<i>The Green Mile (1999)</i>	1	1	1	1	1	-1	0	-1	-1	-1	1
<i>The Boondock Saints (1999)</i>	0	0	0	0	0	-1	-1	0	-1	-1	-4

<i>True Crime (1999)</i>	1	1	1	1	1	0	0	-1	-1	-1	2
<i>Memento (2000)</i>	0	0	0	0	0	-1	0	-1	0	-1	-3
<i>Monster's Ball (2001)</i>	0	0	1	1	1	0	0	0	0	0	3
<i>The Life of David Gale (2003)</i>	1	1	1	1	1	0	0	-1	0	-1	3
<i>Monster (2003)</i>	0	0	1	1	0	0	0	0	0	0	2
<i>Kill Bill: Volume 1 (2003)</i>	0	0	0	0	0	0	0	-1	-1	-1	-3
<i>Man on Fire (2004)</i>	0	0	0	0	0	-1	0	-1	-1	-1	-4
<i>The Dark Knight (2008)</i>	0	0	0	1	0	-1	-1	0	-1	-1	-3
<i>Law Abiding Citizen (2009)</i>	0	0	0	1	1	-1	-1	-1	-1	-1	-2
<i>Kick-Ass (2010)</i>	0	0	0	0	0	-1	-1	-1	-1	-1	-5
<i>Trial by Fire (2018)</i>	1	1	1	1	1	0	-1	-1	0	-1	2
<i>Just Mercy (2019)</i>	1	1	1	1	1	0	0	0	0	0	5
<i>Clemency (2019)</i>	1	1	1	1	1	0	0	-1	0	0	4

From this table, I chose the death penalty and vigilante films from each era with the highest and lowest scores and the most and fewest frames to do a deeper analysis on.<sup>81</sup> I provided an in-depth analysis of these twelve films in relation to the ten frames outlined by my thesis and the other films in each era. I also compared trends over time in order to offer a trajectory that may suggest the future of these two genres and the death penalty more broadly. The 34 films I analyzed provide a base understanding of the frames common in death penalty and vigilante films and strengthen ties between vigilante and pro-death penalty ideals. I recognize that the

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<sup>81</sup> In order to keep this thesis as objective as possible, I provided a cumulative list of my justifications for each film in the appendix. Therefore, my thesis has transparency because readers can identify why each film has the total score it has.

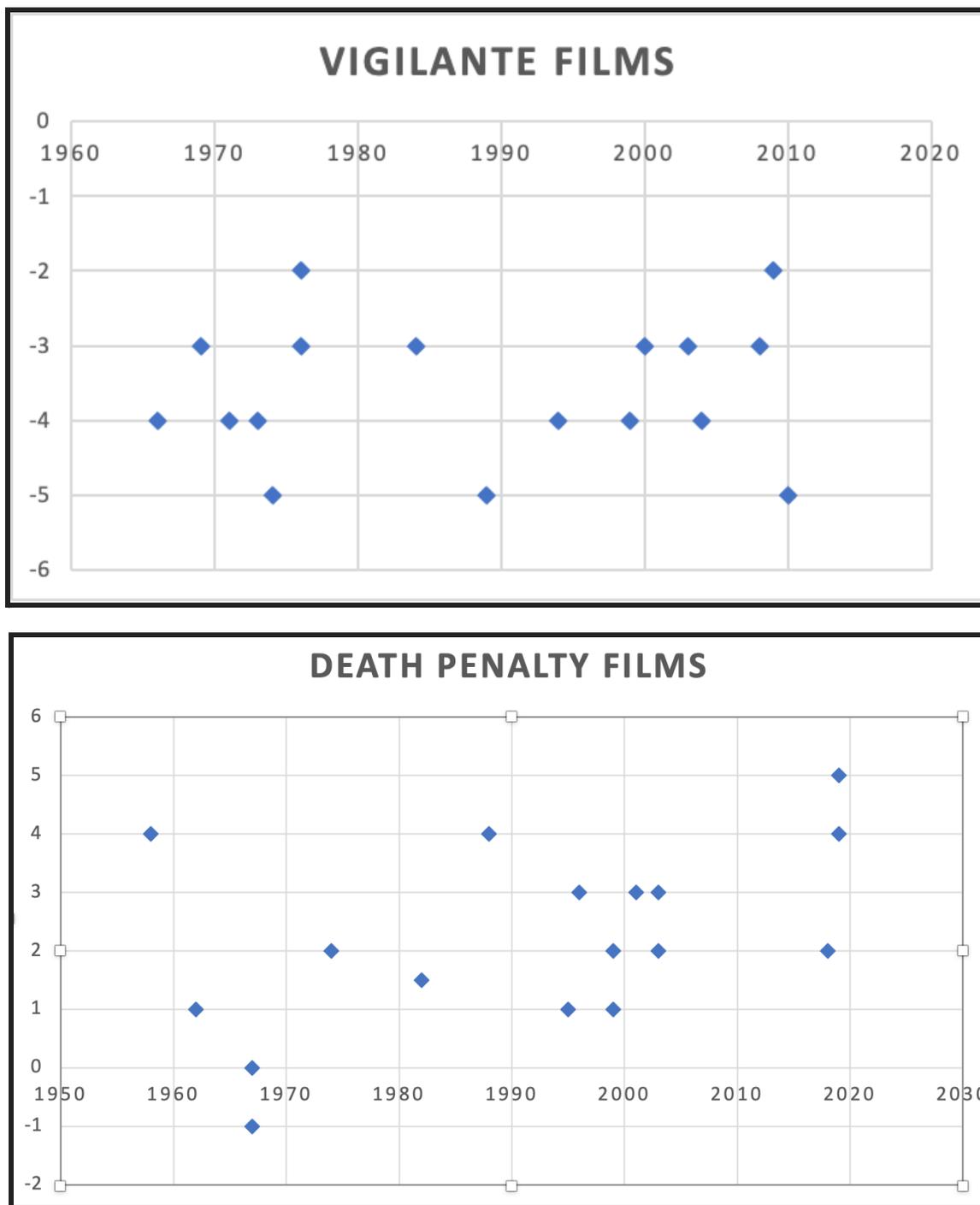
limited scope of this thesis due to time constraints could make its findings less conclusive, but expanding the amount of films cataloged is work that I invite future scholars to undertake.

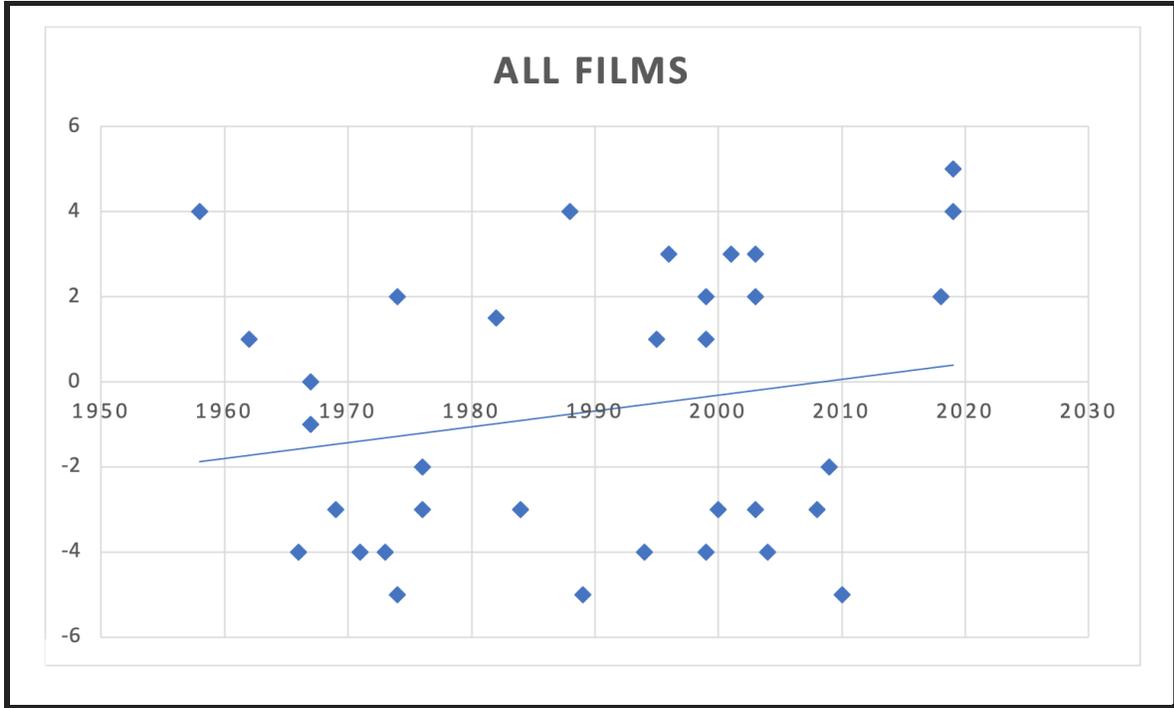
This thesis attempts to explore the relationship between one unique feature of American history - vigilantism - and an institution that on face values seems to espouse similar justifications - capital punishment. In exploring this relationship, chapter two is dedicated to the 1960-1975 films and finds strong pro-death penalty frames on the part of vigilante films and more anti-death penalty frames than pro-death penalty frames from death penalty films. It also discusses the discrimination present in the vigilante films and the presence of countersubversion within this genre. Chapter three outlines the findings from the 1976-1999 period during which vigilante films diversified in their choice of perpetrator and plot, and death penalty films began to take a more staunch stance against the death penalty.<sup>82</sup> Chapter four examines the contours of the 2000-2021 period and finds that vigilante films have changed significantly in their storylines and removed the majority of their racially charged depiction of criminals while death penalty films have begun to condemn the institution as a whole rather than on a case-by-case basis. Finally, chapter five looks at the evolution of these two film genres over the past sixty years and surmises what implications these trends could have for the future of the death penalty in the United States.

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<sup>82</sup> By diversifying its perpetrators, I am referring to fewer Black and hippie criminals.

Figure 5.





## Chapter Two: Countering Subversives from 1960-1975

The 1960-1975 era was a contradictory period in regards to the death penalty, leading to the prevalence of two distinct trains of thought in popular culture texts. On the one hand, the United States issued a moratorium on the death penalty during this period. This might suggest that these films would show an emphasis on rehabilitation or mercy for criminals. On the other hand, this interval set the stage for what would be one of the highest rates of state-sanctioned executions in the United States and avid support of tough on crime politics. According to my interpretation of some of the most popular films from the two genres in question, both of these narratives were present. From this era, we see some of the first critical portrayals of the death penalty alongside utter indifference and willful extermination of violent criminals.

The mean score of films for this era was -1.4. This signifies that more pro-death penalty sentiments were presented than anti-death penalty sentiments. Breaking this down further, the mean of the death penalty films was 1.2, and the mean of the vigilante films was -4. I found that the death penalty films presented only slightly more anti-death penalty frames than pro-death penalty frames while the vigilante films presented pro-death penalty frames almost exclusively. In order to conduct a more in-depth investigation of the messages from this time period, I analyzed four of these films: the film with the highest positive score, *I Want to Live!*; the film with the highest negative score, *Death Wish*; the film displaying the most frames (whether pro- or anti-death penalty), *In Cold Blood*; and the film displaying the fewest frames, *The Execution of Private Slovik*. Although three of the four films are movies about the death penalty and only one is a vigilante movie, all five of the vigilante films of this time period put forward similar messages, which I will expand upon in my discussion of *Death Wish*. In contrast, the three death penalty movies I analyzed varied widely in their messages and themes.

Figure 6.<sup>83</sup>

	Miscarriages of justice	Wrongful executions	Discrimination	Empathy for the condemned / criminal	Cruel and unusual nature of death row	Leniency/ Ineptitude	Community safety/ incapacitation / deterrence	Victim-motivated justice	Dehumanizing the perpetrator	Retribution	Total Score
<i>I Want to Live!</i> (1958)	1	1	1	1	0	0	0	0	0	0	4
<i>Convicts 4</i> (1962)	0	0	0	1	1	0	-1	0	0	0	1
<i>In Cold Blood</i> (1967)	0	0	1	1	1	0	-1	-1	0	-1	0
<i>A Covenant with Death</i> (1967)	1	1	0	0	0	0	-1	0	-1	-1	-1
<i>The Execution of Private Slovik</i> (1974)	0	0	1	1	0	0	0	0	0	0	2
<i>Batman</i> (1966)	0	0	0	0	0	-1	-1	-1	-1	0	-4
<i>The Wild Bunch</i> (1969)	0	0	0	0	0	-1	0	0	-1	-1	-3
<i>Dirty Harry</i> (1971)	0	0	0	0	0	-1	-1	-1	-1	0	-4
<i>Magnum Force</i> (1973)	0	0	0	0	0	-1	-1	0	-1	-1	-4
<i>Death Wish</i> (1974)	0	0	0	0	0	-1	-1	-1	-1	-1	-5

### The Criminal Justice System as Friend and Foe

*I Want to Live!* is the earliest movie about the death penalty that I included in my study and presents the most anti-death penalty frames of the movies in the 1960-1975 range. This film tells the true - but adapted - story of Barbara Graham. A former prostitute with a history of minor infractions, Barbara is framed for the murder of an elderly woman and executed due to the errors of the criminal justice system and the media's portrayal of her.

This film presents the frames of discrimination, miscarriages of justice, wrongful execution and empathy for the condemned. Barbara is discriminated against as an ex-convict

<sup>83</sup> Rows highlighted in green are the films on which I will be focusing.

because of the petty crimes she committed in the past (sex work, perjury and an accomplice to vice). The film also presents numerous miscarriages of justice. The jury is swayed by news reports that twist and slander Barbara's character and involvement in the crime. She is denied a lawyer during her initial questioning by the police (the story takes place before Miranda rights were established). Her own lawyer approaches the judge and tells him he wishes he was not representing her. Her true alibi of being at home with her now estranged husband and newborn child is not believed, so she is tricked into creating a false alibi with an undercover police officer which only makes her look more guilty. The people that the audience is led to believe actually committed the crime saddle her with all the blame and the courts are not competent enough to recognize this. These all represent miscarriages of justice that, taken together, cost Barbara her life. She is wrongfully executed for the justice system's error.

The film also depicts the frame of empathy for the condemned. Although somewhat brash on the surface, Barbara's character is ultimately sympathetic. One heart-wrenching moment for the audience is when she cries at the thought of not being able to raise her son and about him forgetting her. She also inspires empathy as she handles her execution with as much courage as she can muster. One of her last requests is that she be blindfolded going into the gas chamber so she can't see the spectators. Watching her lean on the guard as she walks to the gas chamber blind is a pity-inducing scene. Her wrongful execution also inspires empathy. To see someone die for a crime they likely did not commit is to be confronted with the fact that the criminal justice system does not always get it right. This film therefore leaves its audience without a sense of resolution. As a society, we often view the criminal justice system as being on a pedestal that is distanced from everyday life, something that Ewick & Silbey call the "before the law" legal

consciousness.<sup>84</sup> In this narrative, the law is seen as something that is sacred and distanced from normal life. This contrasts with the “with the law” and “against the law” frameworks Ewick & Silbey also observe, which recognize the inherent injustice in the system as a man-made product that will never be completely unbiased and therefore never be truly fair. *I Want to Live!* forces the audience to question their trust in the justice system and questions the “before the law” legal consciousness. This film confirms the anxieties we have about the criminal justice system’s ability to properly mete out justice, perhaps causing the audience to question whether an institution that so often errs should have the power to issue death sentences.

One of the ways that Barbara’s story differs from the stories of the condemned in later eras is that her experience on death row is not cruel and unusual. While the treatment by prison guards of the condemned in films from the 1976-1999 and 2000-2021 periods could be described as despicable, Barbara is given every comfort available to her. Apart from her own mental anguish at being wrongly accused of the murder and being unable to watch her baby, Bobby, grow up, Barbara is not a victim of cruel and unusual punishment. The prison staff itself is kind and considerate. She even has dental work done shortly before being executed! In all of the films about the death penalty from this era, the prison environment is markedly benevolent. In films from the later eras, the prison staff often antagonize those on death row, sometimes even physically assaulting them. In contrast, in *I Want to Live!*, one of the all-female prison staff weathers Barbara’s initially barbed remarks, befriending and talking with her the entire night leading up to her execution in an act of selfless kindness.

In *Convicts 4* and *A Covenant with Death*, other death penalty films of this era, there is likewise a general lack of cruelty displayed in the prison system. Although John Resko, the

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<sup>84</sup> Ewick, P., & Silbey, S. S. (1999). Common Knowledge and Ideological Critique: The Significance of Knowing that the Haves Come out Ahead. *Law & Society Rev.*, 33, 1025.

protaganist in *Convicts 4*, attempts to escape prison twice after his death sentence is commuted to life in prison, his only punishment is to be thrown in solitary confinement. While this is certainly a cruel and unusual experience, the guard does not do so out of spite or anger, but rather in an attempt to compel true rehabilitation from John. After 18 years in prison, John is released and rejoins his daughter, suggesting that rehabilitation is feasible and painting the image that our prison system is one of healing, not merely retribution.

The same is true in *A Covenant with Death*. After police find Louise Talbot dead and the court convicts her husband, Bryan Talbot, of the murder, Talbot is thrown in jail despite claims of innocence. As he is about to be hanged, he struggles for his life, inadvertently knocking the executioner off the platform and killing him. Talbot is later found to be innocent of murdering his wife and is absolved of his accidental killing of the executioner. During his time in jail, he is treated well by the guards and his eventual release gives the impression that the criminal justice system rights its wrongs and dispenses substantive justice. In *Convicts 4* and *A Covenant with Death*, the convicts are insubordinate, but both ultimately receive mercy instead of excessive punishment.

In *Convicts 4* and *A Covenant with Death*, the criminal justice system corrects its errors and emphasizes rehabilitation; after all, John Resko was guilty of murdering a shopkeeper, yet his death sentence is commuted, and he is released after 18 years. Bryan Talbot kills his executioner, yet is released from prison because the courts realize he was acting in self-defense as an innocent party. Whether such generous outcomes are realistic, these films suggest that the criminal justice system is fair. In comparison, Barbara is executed despite being innocent by a court that discriminates against her because of her previous altercations with the law and prior history as a sex worker. In the conflicting narratives of *I Want to Live!*, *Convicts 4* and *A*

*Covenant with Death*, the audience is confronted with its hope and its fear: its hope that the criminal justice system metes out punishment only to guilty parties and only in proportion to their crime and the fear that it is punishing innocent people for crimes they did not commit.

This anxiety is reflected in the due process model of Herbert Packer's "Two Models of the Criminal Process." The due process model prioritizes fair trials that have the highest chances of convicting only the guilty parties. The pitfall to this model is its inefficiency, but without adherence to the due process model, innocent people are convicted for crimes they did not commit, which shakes the faith the public has in the courts. Tyler supports the claim that public distrust of the courts is increasing. In 1973, only 24% of those surveyed expressed a great deal of confidence in the legal system. By 1993, that number had dropped to an even lower 8%.<sup>85</sup> These films about the death penalty reflect these community-held beliefs about the inefficacy of the courts and their tendency to err.

### **Death Wish and the Broader Themes of Vigilante Films**

As shown in the death penalty films previously discussed, condemning the wrong person is one of the grossest ways the justice system fails. Letting the perpetrator get away is the other. This is the crime control model of Herbert Packer's "Two Models of the Criminal Process." This model sacrifices accuracy for efficiency, as the goal is to convict as many criminals as possible, which may in turn imprison some innocent people as well. The appeal of the vigilante film lies in its exaggeration of the danger and lawlessness of society. This conception of society is on full display in *Death Wish*. After the unprovoked murder of his wife and the sexual assault of his daughter by common street thugs, Paul Kersey turns from a "bleeding-heart liberal" and "conscientious observer" into a gun-wielding vigilante. *Death Wish* had the highest negative

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<sup>85</sup> Tyler, T. R. (1998). Public Mistrust of the Law: Political Perspective. *University of Cincinnati Law Review*, 66(3), 849.

score of all the films from the 1960-1975 period. It displayed all five of the pro-death penalty frames and none of the anti-death penalty frames.

What is most shocking about *Death Wish* and some of the other vigilante films of that time period - *Dirty Harry* and *Wild Bunch* in particular - is its utter dehumanization of the perpetrator. The men who sexually assaulted and killed the Kerseys have no redeemable characteristics. They are seen causing mayhem in the grocery store for no apparent reason and target the Kersey women on a whim. They stalk the Kerseys to their apartment, trick the daughter into opening the door and barge in. Upon learning the Kerseys have no cash on them, they begin brutally raping the daughter, spraying red spray paint on her and the walls of the apartment. In an attempt to protect her daughter, Mrs. Kersey receives a fatal blow to the head. The brutality and irredeemability of muggers like those who terrorized the Kersey family is presented time and again in *Death Wish*.

Seemingly busting out of the woodwork, muggers confront Mr. Kersey at every turn for the rest of the film. A critical audience member might wonder how he even managed to survive up to that point, or how anyone could, considering how ubiquitous the film presents dangerous, blood-thirsty muggers to be. Muggers attempt to attack him on the street, on the subway and boarding the subway. None of them appear desperate or offer any character traits besides maniacal laughter and an apparent delight in preying upon the law-abiding members of society. It should be noted that the majority of these muggers are Black and/or dressed like hippies - a demonization of the counterculture of the time. The movie even addresses this. One woman at a dinner party Mr. Kersey is attending remarks that the vigilante is killing more Black people than white people. In response, another partygoer asserts that there are more Black muggers than

white muggers and says, “What are you asking for? Racial equality among muggers?” a query to which everyone laughs.<sup>86</sup>

In *Dirty Harry*, the criminal is likewise dehumanized. Scorpio, the moniker the killer goes by, has no motive for killing people besides his own insanity. This is painstakingly obvious as he forces the children of a school bus he hijacks to sing nursery rhymes for him. As in *Death Wish*, the two criminals of the film - Scorpio and some wannabe bank robbers - are hippies or Black. Both films demonize these members of society and distinguish them as markedly different from the collective whole of society. Especially in the case of Scorpio, his pure drive in life appears to be murdering innocent people. His victims are young women and young children. He delights in dispensing pain, yet squeals like a pig when he himself is stabbed. He is deceitful when he tells the police one of his victims is still alive (even though she is already dead) and when he pretends a cop beat him up when really he paid someone to beat him up in order to frame the police. In every scene, Scorpio is the epitome of evil and completely stripped of recognizable humanity.

In both films, there is demonization of the counterculture. Michael Rogin writes “A history of American political suppression must attend to the repression of active political dissent... An account of American political suppression must acknowledge the suppression of politics itself.”<sup>87</sup> The Black people and hippies demonized as criminals and subversives in these films were threats to the political order because they dissented from the accepted hierarchy and structures that were meant to subjugate them. They are the presentation of the criminal element of American society in vigilante films because the vigilante can protect society from these “insidious” threats to the white hegemony where the government can’t. The vigilante does not

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<sup>86</sup> Winner, M. (Director). (1974). *Death Wish* (Film). Dino De Laurentiis & Landers-Roberts Productions.

<sup>87</sup> Rogin. (1986). “Ronald Reagan.” 44.

have to act with political correctness or abide by the rules of due process. The genre embodies the tradition of counter-subversion in American society. This ties back to Simon's *Governing Through Crime* in which he describes the crime control narrative as being spurred on by the image of a very specific victim: a white, middle-class suburban victim.

The other villains in these stories are the courts and police themselves. In all five vigilante films from this period, either the police or the criminal justice system are presented as inept or lenient. In *Death Wish*, the police manage to uncover the identity of the vigilante but don't solve a single case related to muggings or civilian safety. In fact, it is Mr. Kersey's acts of vigilantism that lower the crime rate rather than anything the police do. In *Magnum Force* (the sequel to *Dirty Harry*), the police themselves are the vigilantes, having taken on this role because of the ineptitude of the courts. One telling line in the film is: "Fuck the courts, that's what I think. They already wasted too much goddamn time worrying about the rights of killers".<sup>88</sup> The opening scene of the film is a known criminal evading conviction because of inadmissible evidence. Likewise, this theme is present in *Dirty Harry*. Officer Harry Callahan hands the court Scorpio's case wrapped in a bow, but all of the evidence is inadmissible because Callahan did not go through the correct channels in obtaining it. Both of these films present due process as a hindrance to justice and the courts as more helpful to criminals than civilians.

To continue on the theme of abhorrent ineptitude on the part of cops and the courts, in the 1966 version of *Batman*, the Joker, Catwoman, Penguin, and the Riddler have all teamed up to put an end to Batman once and for all. The police leave Batman and Robin to handle this threat all on their own and even when the meddlesome villains incapacitate all of the world's leaders, Batman and Robin are still the only ones capable of remedying the situation.

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<sup>88</sup> Post, T. (Director). (1973). *Magnum Force* (Film). The Malpas Company & Warner Bros.

These vigilante films confirm an anxiety of the public - that there are criminals who are deranged who will continue to kill or maim upstanding members of society and that the criminal justice system is too weak to handle this threat. It is this anxiety that plays into support for the death penalty. It reinforces the thought that it is too dangerous to let these criminals re-enter society, where they could kill again and, perhaps this time, evade a criminal justice system that is too lenient and too inept to fully protect its citizens. What this suggests is a deep animosity for the criminal justice system. Presented as more concerned with the rights of criminals than their victims, the law and its agents are obstacles to every attempt for substantive justice in these films. As previously mentioned, the vigilante genre is an outlet through which the story of the “deserving victim” can be told. This is not every victim, but rather the white, middle-class victims about whom Simon writes: exactly who we see victimized in these films.<sup>89</sup>

This theme of leniency and ineptitude ties nicely into the motivation of community safety, incapacitation and deterrence that is often seen in vigilante films. In *Death Wish*, numerous references to the incredibly high rate of crime are made. Mr. Kersey does not put himself in scenes of immense peril, and yet everywhere he goes, he is confronted with muggers. The theme of community safety is therefore strong in this film. His turning point from conscientious observer to gun-wielding vigilante is witnessed when he is out west, cementing a business deal. His eyes seem to fill with wonder as he watches a reenactment of an old western shootout and the power of the vigilante. His business partner tells him, “A gun is just a tool, like a hammer or an ax... we can keep a burglar out of a bank... Unlike you, we can walk the streets safely”.<sup>90</sup> *Magnum Force* echoes this theme of needing to “put down” criminals for the safety of the community. Rogue police officers begin killing all of society’s “undesirables”: mob

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<sup>89</sup> Simon (2007) *Governing Through Crime*.

<sup>90</sup> Winner (1974). *Death Wish*.

members, drug users, pimps, and the like. In defense of their actions, one of the rogue police officers says, “No harm in shooting, as long as the right people get shot”.<sup>91</sup> Some of the people the cops murder are not even committing violent crimes, but instead petty vice crimes, such as drug use. In this way, “keeping the community safe” becomes a facade from which the rogue cops hide their disgust with subversives behind a virtuous motive. In acknowledging the wrongfulness of the vigilante cops’ actions, *Magnum Force* is particularly interesting, because Officer Callahan - known for his own acts of vigilantism - is the one to uphold the law and rebel against the plot of the rogue cops. Although the courts have failed to provide justice for many individuals, Callahan still remains steadfast to the system. The movie therefore ends with the discordant and somber recognition that the community is protected neither by the courts, nor through vigilante actions because vigilantism cannot have a place in a lawful society. On the other hand, the audience is left with a very different message at the end of *Death Wish*. Paul Kersey moves to another city and shoots an imaginary gun at some punks, giving the impression that he will be resuming his vigilante acts with no qualms. There is no dissonance or hesitancy on the part of Paul Kersey, suggesting there should be no hesitancy on the part of the audience either. The message is that if you commit a crime, you are a danger to society and therefore better off dead.

Finally, *Death Wish* presents the frames of retribution and victim-motivated justice. Although Mr. Kersey does not openly remark on his reason for killing muggers, his motivation is easily surmised. When attempting to uncover the identity of the vigilante, the police chief says, “Motive: Revenge” and tells his staff to look for persons whose families had been the victims of muggings. The lack of remorse that Mr. Kersey seems to derive from conducting his vigilante acts can only attest to his motive of retribution. He wants to kill as many muggers as he can; that

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<sup>91</sup> Post. (1973). *Magnum Force*

is why he chooses to stay on a train with two shady individuals despite everyone else getting off. When they go to mug him, he shoots them through his newspaper. This - and many of his other near-muggings - could have easily been avoided, but Mr. Kersey wants to exact revenge on the type of people who ruined his life. This desire is tied into his other motivation for killing muggers: his need to avenge his wife and daughter. This is shown in the loving way he looks at photos of his wife he took while on vacation at the beginning of the film and by the utterly depraved state his daughter is left in after the experience. She is mute and nearly catatonic.<sup>92</sup> In its emphasis on the victims, the movie presents the frame of victim-motivated justice. The families of the muggers he kills are never shown; it is like the muggers have no impact on the world, except as scourge.

*Death Wish* is a good representation of the vigilante films from this era, as it captures many of the underlying messages from the films: criminals (depicted as subversives) aren't worthy of being considered human; the justice system is ineffective; and the community is not safe. Although there were slight deviations from these narratives, these messages were predominantly consistent in these films.

### **An Outlier Among Films About the Death Penalty**

The film that presented the fewest sentiments in this era was *The Execution of Private Slovik*. The lack of frames could be because the content of this film was different from other films about the death penalty. The protagonist of the story, Eddie Slovik, is an ex-convict who had married the love of his life and was building a life with her, in spite of the truancy of his youth, when he was drafted to serve in the military. After one especially traumatic night in which

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<sup>92</sup> Catatonia also occurs in *The Searchers* (1956), one of the earlier vigilante western. Catatonia presents for the audience a visceral victim, and the silence and lack of ability to communicate on the part of these victims speaks loudly to the extent of the violence they have experienced, compelling the audience to only view the perpetrator in a more negative light.

he thought he would die, Eddie begs his commanding officers not to place him in the infantry again. He threatens to desert, and eventually he does. He turns himself in and goes to trial, maintaining throughout his trial his intention of deserting. Due to his status as an ex-convict, and to make an example out of him, Eddie is condemned with the death penalty, the only soldier to suffer such a fate since the Civil War.

Eddie's story is entirely different from the stories of other death row inmates, which is likely why *The Execution of Private Slovik* presented only two of the ten frames, both of which were on the anti-death penalty side. There was no miscarriages of justice or wrongful executions because Eddie was undeniably guilty of the crime he committed (desertion) and there were no mitigating factors. While it could be morally wrong to punish Eddie's crime with death, all was in order legally. During the time leading up to his execution, Eddie was not treated in a cruel or unusual manner. His guards were nice and sympathetic to him, and he was not on death row for an interminably long time. The only two anti-death penalty frames that the film showed were those of empathy for the condemned and discrimination.

There were many instances of empathy for the condemned. Eddie was a good-hearted young man whose naivety and anxiety got him killed. Eddie discusses why he couldn't go back to the rifle infantry due to the possibility of dying at any moment. "I guess that's what I really couldn't take... the not knowing".<sup>93</sup> Eddie is a truly pitiable character. His kindness to his wife and the genuine joy he had in his life with her for such a brief time only add to the empathy the audience feels for him. His story is even more tragic because of the discrimination he suffers due to his status as an ex-convict. When discussing whether or not Eddie deserves clemency, the committee of commanding officers mention his previous criminal record. Eddie himself acknowledges this. He says, "They're making an example out of me because I'm an ex-con..."

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<sup>93</sup> Johnson, L. (Director). (1974) *The Execution of Private Slovik* (Film). Universal Television

They're shooting me for the bread and gum I used to steal when I was twelve years old".<sup>94</sup> As is usual, the subject of the death penalty case is rarely an affluent white male. Instead, the unfortunate soul who faces the death penalty normally has some mark that distinguishes them from mainstream society - this could be their class, their race, their criminal record or their cognitive ability. In *The Execution of Private Slovik*, it is Eddie's criminal record that dooms him while a deserter without this criminal record may have instead been imprisoned.

### **The Death Penalty as Uncomfortable but Necessary**

I now turn to the film that presented the most themes overall in this era. Earning a score of 0, *In Cold Blood* had three pro-death penalty frames and three anti-death penalty frames. Unlike *A Covenant With Death* or *I Want to Live!*, Perry and Dick, the protagonists, are undeniably guilty for the heinous crime of tying up and murdering a family of four in a burglary gone bad. In regards to the frames not presented on the anti-death penalty side, there were no miscarriages of justice or wrongful executions in this film. Although Dick and Perry could have been sentenced to life in prison instead of condemned to death, the film does not present the justice system as being corrupt or wrongful in its sentencing. For frames on the pro-death penalty side not presented, the film does not dehumanize Dick or Perry and does not present the criminal justice system as overly lenient.

The film *did* present the frame of empathy for the condemned. Especially on the part of Perry, the audience can easily sympathize with him due to his tragic backstory. Perry reveals that he and his father had created a lodge for tourists in Alaska but had gotten no business. Enraged, his father attempted to shoot Perry, but there was no bullet in the chamber; Perry was then kicked out of the house. Other traumatic snippets from Perry's past show up in the film as well: his mother's abuse at the hand of his father; his mother's infidelity in the presence of her children;

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<sup>94</sup> Ibid.

his mother's suicide; a motorcycle accident leaving a deep gash in his leg; and his abuse by nuns as a child. The film seems to portray Perry's violent act of killing the Clutter family as a PTSD side effect. I say this because as Dick and Perry search the Clutter house for money, Perry takes it upon himself to see to the comfort of the family members. He unties Mr. Clutter and puts him in a more comfortable position when he appears to be in pain. He prevents Dick from raping the daughter, Nancy Clutter. He remarks on the beauty of Nancy's drawings and reveals he only made it to third grade, communicating in an amicable and calming way for Nancy. It is hard to reconcile Perry's kind behaviors toward the family with his sudden murder of all four of them. This dichotomy suggests that Perry did not have full autonomy of himself when he murdered the Clutter family. The audience is led to believe through the use of a flashback that the trauma of his father trying to shoot him resurfaced in the heat of the moment, causing him to go blind with fear or rage. Although Dick was not nearly as sympathetic of a character as Perry, he too had his moments of earned sympathy. His father discussing what a good son Dick was or Dick's love for his own son were moments when the audience could see behind Dick's callous exterior.

Yet, although the film offers empathy for the condemned, the brutality of the murders and Dick and Perry's unsavory characteristics are not sugarcoated. Rather, the murder scene is shown in detail. Furthermore, questionable decisions of Dick and Perry's contribute to an overall sense that they must be stopped. These decisions include their use of illegitimate checks, their plan to kill and rob an unsuspecting good samaritan who offers them a lift, and their overall flouting of the law. Dick even says of Perry that he is "a natural-born killer," "unstable," "explosive" and has a "hair-trigger temper".<sup>95</sup> Although Perry is often the sweeter, the milder, and the more tragic of the two, he is also the more volatile one and compels genuine concern for community safety.

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<sup>95</sup> Brooks, R. (Director). (1967). *In Cold Blood* (Film). Columbia Pictures & Pax Enterprises.

The film also contained traces of retribution and victim-motivated justice within its scenes. In the courtroom, the lawyer tells the jury that Dick and Perry didn't have mercy for the Clutters, so the jury should not have mercy for them. Dick even acknowledges that he supports hanging criminals. "It's just revenge," he says. In the same way that the audience feels empathy, or at least sympathy, for Dick and Perry, the audience feels sympathy for their victims, and victim-motivated justice is a very present frame in the film. The opening scene of the film shows the Clutter family going about their daily tasks, each member more kind-hearted and pure than the last. Nancy expresses anxiety about all of the errands and good-deeds she's promised people, and Mr. Clutter generously offers his help, alleviating her stress. Later, when Dick and Perry are tying the family up, the Clutters are again courteous and the absolute picture of upstanding citizens. These scenes contribute to the theme of victim-motivated justice, as they present the Clutter family as the most kind-hearted group of people in the world, especially undeserving of their fate. Again, the victim being white, middle-class and suburban, is the epitome of the "deserving victim" that Simon writes of. This choice - to present the victims as flawlessly good people - is interesting, considering the rest of the film is much more nuanced and accepting of shades of gray. Whereas Dick and Perry have both flaws and redeeming qualities, the victims are angelic. This contributes to the ambivalence of *In Cold Blood*. Of all of the films about the death penalty in this era, *In Cold Blood* is the least conclusive about which side it picks in the death penalty debate. While Dick and Perry have their good traits, the film makes it clear that they must answer for their crime through the letting of their own blood.

As in most death penalty films, Dick and Perry are not presented as bloodthirsty senseless criminals who commit crimes out of pure bloodlust. Instead, they are given backstories that account for what led them to such a heinous act. Dick - but especially Perry - are both poor. They

kill the affluent Clutter family in an attempt to steal their money. Both have been in prison before for other crimes, which likely means that finding work and becoming reintegrated into society was a challenge, necessitating this robbery. Perry has a traumatic background. These are the clues that show the discrimination and circumstances that led the two to commit the crime and be put to death rather than given life in prison. Dick remarks that the criminal justice system is biased to help rich people. These subtle nods show the discrimination within society that sets up some people to receive the harshest penalty while others are shown mercy.

Finally, *In Cold Blood* hints at the cruel and unusual nature of death row. One of the other death row prisoners takes twenty minutes to stop breathing when he is hanged. Dick and Perry are on death row for five years before they are executed. During these five years, they are not allowed television, radio, exercise or games. The narrator says, “They could eat, sleep, write, pray, read, and dream. Mostly they could wait to die”.<sup>96</sup> How miserable must this existence have been? Minutes before he is hanged, Perry begs to use the bathroom. He is already in the straightjacket with his arms bound. He desperately wants to save some of his dignity and not urinate on himself during the hanging. Although the chaplain convinces the guards to allow Perry this dignity, they initially tell Perry no. To be denied such simple human decencies speaks to the cruel and unusual nature of death row.

In many ways, *In Cold Blood* defied traditional contours of the death penalty film genre. It certainly scored lower on the scale than any of the other death penalty films from this era, and equally balanced its negative portrayal of the death penalty with its acceptance of the ideals for which it stands for and aims to do. If any resounding message can be taken from this film to guide thought on the death penalty, however, it is probably its last lines, which are spoken by the journalist attending the hangings. He talks about how despite all the ruckus Dick and Perry’s

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<sup>96</sup> Brooks. (1967). *In Cold Blood*.

hangings had caused, the death penalty won't do anything to stop future murders. In this way, the film seems to be saying that while the death penalty may serve some purposes - retribution or community cleansing - it does not deter future crimes. So the choice is up to society if it wishes to double its total killings simply for the goal of taking an eye for an eye.

### **Conclusion**

The overall themes from this era of film support two conflicting streams of thought. On the one hand, these are deeply reflective films on the death penalty, its purpose and better alternatives (rehabilitation as a theme in *Convicts 4*). On the other hand, the films showed an emphasis on the need for crime control, criminals as inhuman, bloodthirsty beings and an overall lack of respect for people who break the law. As expected, the death penalty films presented more anti-death penalty frames and the vigilante films presented more pro-death penalty frames. Discrimination was displayed in both genres (although it was presented as wrong in one genre and perpetuated in the other). In films about the death penalty, the people who ended up on death row - and in prison in general - were poor or ex-cons or both. There was no presentation of the criminals as mentally deranged. Rather, they were predominantly rational beings with emotions and reason behind their crimes. When discrimination - in these cases due to class or ex-con status - appeared, it was acknowledged as an injustice that should be changed so that all convicted persons can have fair, unbiased trials. On the flip side, the vigilante films leaned into perpetuating discrimination and harmful stereotypes. Criminals were often Black or hippies and these two groups of people were openly mentioned as being the most dangerous. Circumstances like poverty or trauma were never included as mitigating factors explaining why the criminals were engaging in unlawful behavior. Instead, the vigilante films compelled their audiences to believe that some people are just born rotten.

The films of the 1960-1975 period support the scholarship that has been written about the politics of the American criminal justice system and the translation of law into popular culture. From these films, one sees the politics of countersubversion through racist and discriminatory stereotypes meant to present political dissidents as demonic. One also witnesses law being translated into popular culture as many of the frames that mark pro- and anti- death penalty positions were integrated into the broader plots of the films. Finally, one sees the “deserving” victim; a white, middle-class, virtuous and typically female person. The vigilante films espoused a political consciousness that was more concerned with the crime control model and punishing criminals than providing due process under the law. Films in the death penalty genre were more ambivalent. In numerous death penalty films, audiences were allowed to turn a blind eye to the many instances of unfair trials, choosing instead to believe that most wrongs are righted (such as in *A Covenant with Death*) but were also confronted with acts of injustice from the justice system (Barbara Graham or Eddie Slovik’s executions, both based on true stories). The messages found in the films of this era, while varied, overwhelmingly signaled the coming era of tough on crime politics and punitive measures.

### Chapter Three: Broadening Genre Horizons from 1976-1999

The 1976-1999 era had one of the highest rates of execution in the United States. It was during this time that the crime control model was particularly prevalent and sensationalized in political rhetoric. For this era, I will again be analyzing the film with the highest positive score: *The Thin Blue Line*; the film with the highest negative score: *Batman*; the film with the fewest frames: *Taxi Driver*; and the film with the most frames: *The Green Mile*. Two of these are vigilante films and two are death penalty films. The mean of this era was -0.71. The mean of the death penalty films was 2.25. The mean of the vigilante films was -3.67. This is interesting because the mean shifted on account of both genres of films orienting less towards the pro-death penalty frames, rather than only one genre doing the work of shifting the mean. This could hint at a slow progression towards more acceptance of anti-death penalty values and less acceptance of capital punishment.

Figure 7.

	Miscarriages of justice	Wrongful executions	Discrimination	Empathy for the condemned / criminal	Cruel and unusual nature of death row	Leniency/ Ineptitude	Community safety/ incapacitation / deterrence	Victim-motivated justice	Dehumanizing the perpetrator	Retribution	Total Score
<i>Carrie (1976)</i>	0	0	0	0	0	-1	0	0	-1	-1	-3
<i>Taxi Driver (1976)</i>	0	0	0	0	0	0	0	-1	-1	0	-2
<i>The Executioner's Song (1982)</i>	.5	0	1	1	0	0	-1	0	0	0	1.5
<i>A Nightmare on Elm Street (1984)</i>	0	0	0	0	0	-1	-1	0	-1	0	-3
<i>The Thin Blue Line (1988)</i>	1	1	0	1	1	0	0	0	0	0	4
<i>Batman (1989)</i>	0	0	0	0	0	-1	-1	-1	-1	-1	-5
<i>The Crow (1994)</i>	0	0	0	0	0	-1	0	-1	-1	-1	-4

<i>Dead Man Walking (1995)</i>	1	0	1	1	1	0	0	-1	-1	-1	1
<i>Last Dance (1996)</i>	1	0	1	1	1	0	0	-1	0	0	3
<i>The Green Mile (1999)</i>	1	1	1	1	1	-1	0	-1	-1	-1	1
<i>The Boondock Saints (1999)</i>	0	0	0	0	0	-1	-1	0	-1	-1	-4
<i>True Crime (1999)</i>	1	1	1	1	1	0	0	-1	-1	-1	2

## Documenting the Death Penalty

*The Thin Blue Line* is the only documentary-style film in this study and was included because of the waves it made and popularity it gained when it came out in 1988. The documentary tells the story of Randall Adams, a man originally found guilty of killing a police officer and given a death sentence. At the time of this documentary, his sentence had been commuted to life in prison, and eventually he was exonerated of his charges and released. This is because all evidence pointed to Randall Adams as being innocent and David Harris as being the true killer. The documentary suggests that the reason Adams was prosecuted instead of Harris was because Harris was still a juvenile and could not be convicted with the death penalty. It may seem to be a stretch that a state would choose to prosecute one person over another just because of a higher chance of execution, but Texas, where this case took place, has one of the highest rates of execution in the country.<sup>97</sup> In fact, the documentary asserts that a well-known saying in Texas is: “Any prosecutor can convict a guilty man. It takes a great prosecutor to convict an innocent man”.<sup>98</sup> This is a shocking quote with which to come to terms. Yet, this is exactly what Herbert Packer warns as the fallout of committing wholeheartedly to the crime control model. In

<sup>97</sup> Death Penalty Information Center. (2022). State Execution Rates (through 2020). *Death Penalty Information Center*. Texas rated number two on per capita state execution rates and number two on executions per death sentence.

<sup>98</sup> Morris. E. (Director). (1988). *The Thin Blue Line* (Film). American Playhouse, Channel 4 Television Corporation & Third Floor Productions.

a state like Texas, with a strong commitment to vigilante ideals and a racialized history,<sup>99</sup> convicting innocent people, especially if they happen to be subversives or people of color, is a necessary tradeoff for appearing tough on crime and protecting the white hegemony. In *The Thin Blue Line*, both Harris and Adams were white, so race was not a factor; however, Adams was described to be a hippie, a different category of subversive in the 1970's when his trial took place. As Rogin asserts, the United States is built on the history of countersubversion. This refers to the willfulness of the powers that be to restrict the movement and rights of those elements that it deems subversive. The original subversives were Native Americans, Black Americans, and certain immigrants. This shifted to non-white immigrants as a whole, Catholics, communists, the working class and hippies.<sup>100</sup> Though certainly less targeted than other “subversives,” hippies were a demonized group at this time, as was very apparent in vigilante films from the 1960-1975 period and which continued in the following era. It is therefore probable that the investigative team honed in on Adams as the killer because he dressed like a hippie and was old enough to be sentenced with capital punishment.

Despite this seemingly targeted attack on Adams because of his identity expression as a hippie, I coded *The Thin Blue Line* as not presenting the frame of discrimination. I did not include the film as presenting discrimination because I reserve the discrimination category for more well-established biases, such as race, class, gender, nationality, religion, prior criminal record status or mental ability. Although virulent during the Vietnam War, the attack on hippies did not remain a salient part of American culture the way any of these other characteristics have. Identifying as a hippie also did not engender lasting detrimental impacts in most cases unlike the

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<sup>99</sup> Texas was incorporated to the U.S. as a slave state in 1845. It has a history of racist legislation concerning immigrants and people of color. In 2010, Black people were 12% of the total population of Texas but made up 32% of its inmates. Latina/os were 38% of the population and 34% of the prison population. Whites were 45% of the population and made up 33% of the prison population. Statistics from Prison Policy Initiative. (2021). Texas Profile. *Prison Policy Initiative*.

<sup>100</sup> Rogin. (1986). “Ronald Reagan”

more immutable characteristics I previously listed. I do not want to dilute the experiences of those in the United States who have faced traumatic and enduring discriminatory practices by allowing any form of bias to count towards the discrimination category, especially when dressing like a hippie is a mutable choice, unlike skin color, nationality or mental ability.<sup>101</sup>

The theme of miscarriages of justice is particularly notable in this film. When Adams is first brought in for questioning, the police threaten him with a pistol to confess and use his statement as a confession. The expert psychologist they use for his hearing is Dr. Death, a man known for affirming the future dangerousness of defendants being tried for the death penalty without even meeting these defendants. Future dangerousness is a consideration for authorizing capital punishment in Texas and has a bearing on whether a jury should sentence a defendant to the death penalty. Other miscarriages of justice included the officer who witnessed the murder changing her testimony significantly from her original statement and dishonest witnesses giving false statements for a payout. In all these ways, the justice system miscarried, proving how easy it can be to fabricate a case once investigators have honed in on a specific suspect. The film also shows the frame of wrongful execution because, while Adams was not executed, he was sentenced to be, thereby fulfilling the qualifications of this frame.

In addition, the documentary presents the frames of cruel and unusual nature of death row and empathy for the condemned. Adams recounts his days on death row and says that the correction officers would tell him fifteen to twenty times a day all the gory details of what would happen during his execution and how they couldn't wait to kill him. This form of inhumane psychological treatment certainly crosses into the realm of cruel and unusual punishment. In hearing Adams recount this event, he evoked empathy and pity on the part of the audience. The true murderer of the police officer, David Harris, who is later convicted for a different crime, also

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<sup>101</sup> Or ex-convict status once someone has been found guilty for a crime.

evokes empathy because of the trauma he suffered as a young boy. His four-year-old brother drowned when he was three, and his father withheld acceptance for Harris as he was growing up. This is no excuse for committing violent crimes, but might offer a partial explanation for how his mind became so twisted.

On account of *The Thin Blue Line*, Adams was eventually granted a retrial and released from prison. David Harris was executed in 2004 for a different murder. *The Thin Blue Line* argues wholeheartedly for the release of Adams and for recognition of the corruption of the criminal justice system in his trial. Yet, as with other films about the death penalty, *The Thin Blue Line* only goes this far in its condemnation of the death penalty. After watching the film, an audience member might feel indignant that this one particular man was wrongly convicted, but may not transfer these feelings to the institution as a whole. Furthermore, in also telling the story of Harris, a man who murdered numerous people before finally being caught and who seemed morbidly unaffected by his actions, these feelings of indignation may be lessened. In focusing on the wrongfulness of executing only the innocent, the film falls short of proscribing the death penalty as a whole. This reliance on individual cases instead of the institution is what Sarat et al. bemoaned as the pitfall of films about the death penalty. In not condemning the death penalty as a whole, regardless of guilt or innocence, *The Thin Blue Line* and other films about the death penalty miss out on the opportunity to sway the audience towards abolition.

### **Vigilantes in the Realm of the Fantastic**

On the opposite side of the spectrum, the film that presented the most pro-death penalty frames was the 1989 version of *Batman*. Although subtle, the pro-death penalty frames are nevertheless underlying themes in the film. The 1989 version of *Batman* is markedly different from the 1966 version. The earlier film is cartoon-like and exaggerated. Although there is a

threat of danger, the villains are laughable. It is wholly opposite in tone and mood from the later version. In the 1989 rendition, there is only one villain - the Joker - and he is far from laughable.

The most salient pro-death penalty theme in this film is that of dehumanizing the perpetrator. Even before Jack Napier undergoes the radioactive transformation that turns him into the Joker, he kills innocent civilians without remorse - including Bruce Wayne's parents. He is in every way a seedy character, with no respect for human life or the law. After he becomes the Joker, and is quite literally de-humanized (he is left with deformities and a complete lack of moral conscience), his actions only become more outrageous. He puts chemicals into everyday products, whose use causes facial paralysis and death. In his wanton disrespect for human life, chaos and notoriety seem to be his only motives. In this way, the Joker is exactly the sort of psychopath with whom we as a society are most concerned. He epitomizes the need for the community safety/ incapacitation/ deterrence argument because he proves that he will continue to wreak havoc until he is dead. This same theme is presented in the later *Batman: The Dark Knight*. Even after the Joker is captured in *The Dark Knight*, he continues to kill people from prison. The choice becomes very clear: exterminate the Joker, or let innocent people die. Although less poignant in the 1989 version, the notion that incapacitating the Joker is the only way to keep the public safe is still present. In the end, Batman is inadvertently responsible for the Joker falling to his death, and it is only through this act that the movie finds resolution.

The film also presents the frames of retribution and victim-motivated justice on the part of Batman. This is one of Batman's defining features - his love of justice. When he is having one of his final altercations with the Joker, he tells him, "I made you, you made me first" in reference to Jack Napier killing his parents when he was a boy. Batman was responsible for Jack Napier falling into the vat of chemicals, but Jack Napier was responsible for creating Batman by killing

his parents. In this way, the film not only presents retribution - making the Joker pay for what he did - but also victim-motivated justice, as Bruce Wayne only became the Batman in response to his parents' murders. We also see the Joker exact retribution. He kills his former boss for double-crossing him. The film is littered with presentations of these two frames.

Finally, the theme of leniency and ineptitude on the part of the police shows up throughout the film. Not only do the police play no role in stopping the Joker, but at times they are nowhere to be found. It is Batman who saves the public from Joker's Smylex gas when the Joker is throwing a festival. Batman is also the one who cracks the code on what combinations of household goods produce the poisonous gas, thereby preventing any further casualties. He saves Vicki Vale from the Joker at the end of the film, while the police can't even get into the building. Throughout the film, Batman is the one to thwart the Joker, while the police remain distant figures, more concerned with Batman than with procuring public safety. Commissioner Jim Gordan says, "If the Bat were real, we would find him, we would arrest him".<sup>102</sup> As in *Death Wish*, the focus of the police is on unmasking the identity of the vigilante rather than protecting the public.

Perhaps most interesting about this era was the mixture of fantasy and reality on the part of the vigilante films. While only one vigilante film from the 1960-1975 era included fantastical beings (*Batman* 1966 version), four of the vigilante films from the 1976-1999 period contained elements of fantasy: *Batman*, *The Crow*, *Carrie*, and *A Nightmare on Elm Street*. In some cases - *Batman* and *A Nightmare on Elm Street* - the antagonist is no longer or more than human. The Joker falls into a vat of toxic waste and becomes a villain, while Freddy Krueger is a vengeful

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<sup>102</sup> Burton, T. (Director). (1989). *The Batman* (Film). Warner Bros., The Guber-Peters Company & PolyGrammed Filmed Entertainment.

spirit. There is a sense that the wickedness of their human life was so great that it quite literally mutilated their bodies into something fantastical.

In *The Crow* and *Carrie*, it is instead the protagonists who are beyond human. Both Carrie (*Carrie*) and Eric (*The Crow*) are victims. Carrie exacts justice on her high school for bullying her while Eric avenges his and his girlfriends' deaths, having come back to life for one night only to serve this purpose. Carrie (*Carrie*) and Eric (*The Crow*) are victims who can only counteract evil through superpowers. In both films, there is a demonizing of those who commit crimes (even if that crime is as simple as bullying a teenage girl) and an acknowledgment that the evil can only be combatted through counteractive abilities that extend beyond human bounds.

The presence of fantastical elements in the vigilante films of this era could therefore highlight the attitude that society requires punitive, harsher responses to crimes: responses that are unbound by due process and the law. One could argue that the fantastical element of these films is an extension of the leniency/ineptitude of the criminal justice system argument. Only through one's own fantastical abilities can one be safe in society, as the courts and authority figures are not competent in providing protection. However, one could also argue that in distancing stories of crime control from real life, these films allow their audiences to be less concerned with crime because the stories are unrelatable. The impact of this shift in focus to the fantastical in the vigilante genre can only be surmised, but is worthy of notice and contemplation.

### **Vigilante: Hero or Villain?**

*Taxi Driver* presented the fewest sentiments of the twelve films from this era. *Taxi Driver* tells the story of Travis Bickle, a taxi driver who, while coping with insomnia and relationship failure, begins to become obsessed with cleaning the city of "scum." He uses the word "scum"

liberally throughout the film. Eventually, his words become actions and he shoots a man trying to rob a store as well as the pimps of a young sex worker whom he has befriended.

Although consisting of all of the ingredients of a classic vigilante film, *Taxi Driver* only expresses the pro-death penalty frames of dehumanizing the perpetrator and victim-motivated justice. The ineptitude of the police or the courts is never discussed - probably because the “scum” to which he is referring are people committing lower offenses, such as pimps and bookies, which are predominantly non-violent offenses and less warranting of concerted police effort in films. He is not motivated by retribution, as no crimes are committed against him or those he loves. I argue the film shows the frame of victim-motivated justice because Bickle kills the two pimps that were making money off of his friend, Iris. However, most of his motivation for committing vigilante acts appears to come more from his own anger and deteriorating mental state than from any other source. As the film progresses, he operates in a progressively volatile and contradictory manner. He begins vigorously weight training, buying guns, and attempts to murder the politician for whom his failed love interest is campaigning. This is the same politician of whom he claimed to be the biggest fan. He watches pornographic films in the movie theater, but develops an obsession with liberating a young sex worker named Iris who gets into his taxi cab. Bickle’s irrational behaviors build to a fever pitch, and he shoots and kills the pimps before attempting to take his own life. The irregularity with which Bickle chooses his attempted victims - a politician, a store robber, and two pimps - points to the instability of his mind. I believe it is because Bickle is not a prototypical vigilante that most of the frames I am cataloging were not present in this film.

Unlike other vigilante films, the focus of *Taxi Driver* is not on the dangerousness of criminals or the corruption of society; instead, Bickle is the specimen of interest. He behaves in

an off-putting and increasingly depraved manner that makes him as intimidating and frightening as the “scum” against whom he had a vendetta. As the film progresses, Bickle becomes unrelatable as a character and through his violence becomes dehumanized. Dehumanization can be presented in numerous ways. It occurs when a criminal is presented as being bloodthirsty and maniacal. It occurs when a character is stripped of their humanity (figuratively or literally) and becomes unrecognizable as a character with human emotions and motives. And it occurs when the motivations behind violence are unrecognizable. In most vigilante films, the vigilante, while perhaps an outsider or flawed (Harry Callahan, Paul Kersey, Bruce Wayne), is nevertheless motivated by ideals such as keeping the community safe or avenging a loved one. Bickle does not have these guiding principles. His motivations are unclear. He is a Vietnam war veteran who received an honorable discharge. Although never stated, he may have permanent trauma from his time in the war, which would explain why he has insomnia. However, his motivations and mindset are never explained, leading the audience to be unable to account for his bizarre and violent behavior. In this way, *Taxi Driver* deconstructs the norms of the vigilante film and abstracts the vigilante himself from typical human behavior to a degree that is normally reserved for the criminals of this genre of film. Criminals in vigilante films act violently and without remorse. Bickle does the same.

Bickle is very different from other vigilantes. Other vigilantes may kill criminals, but this is done for the greater good and when lives are on the line. Their line of thought is clear and rings true with our own sense of justice, unlike Bickle's. This is what makes *Taxi Driver* different from other vigilante films and likely what makes it less pro-death penalty oriented. In not making the vigilante a clear-headed, justifiable character, the movie muddies the waters of crime control

by showing that those attempting to “clean up the streets” may be as morally reprehensible and dangerous as the criminals themselves.

### **Moving Incremental Steps Toward Abolition**

From this discussion of *Taxi Driver*, I move to the opposite side of the spectrum to the film from this era that presented the most frames. *The Green Mile* presented all five of the anti-death penalty frames and four of the pro-death penalty frames, totaling nine of the ten frames. As it presented the most frames, I will be analyzing *The Green Mile*. However, it is important to note that *True Crime* presented eight frames and *Dead Man Walking* seven, showing quite a few death penalty films with more than half of the frames presented. All three of these films flesh out anti-death penalty arguments but also acknowledging the pro-death penalty side, perhaps in an attempt to appeal to the tough on crime politics of the time.<sup>103</sup>

*The Green Mile* is the highest grossing death penalty film and has the second highest audience rating on Rotten Tomatoes of the death penalty films included in this thesis. With its wide reach and popularity, *The Green Mile* would be a good candidate for a film that could shift public opinion attitudes about the death penalty in a meaningful way. In many aspects, it does raise questions against the death penalty. However, it falls short of total condemnation. As a brief summary, *The Green Mile* tells the story of Paul Edgecomb, a commanding officer in 1935 Louisiana who is in charge of the death row inmates in a penitentiary. He comes to realize that one of the inmates, John Coffey, has magical healing powers and that he was attempting to save the two little girls that the courts found him guilty of murdering. Ultimately, John Coffey is executed and Paul quits his job as a guard; however, some of the magic is given to him and he

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<sup>103</sup> If my research design found some way to take into account the statistical prevalence of each sentiment in each film while still tabulating an overall score, that would provide even more information, as many of the death penalty films showed pro-death penalty sentiments, but only in passing. I therefore had to include these sentiments as being present in the film, despite the anti-death penalty sentiments being much stronger in these films.

lives an exceedingly long life, forced to watch all those he cares about grow old and die. *The Green Mile* could warrant its own thesis due to all of its complexity. However, the following are its most interesting points as related to this study.

First, the film evokes immense empathy for the condemned: John Coffey, Eduard “Del” Delacroix and Arlen Bitterbuck. John is innocent of his crime and details of Del and Arlen’s crimes are never mentioned. The film therefore allows the audience to have nothing but pity and remorse for the fate of all three of these individuals. Furthermore, each of these three is a member of a minority group: John is Black, Bitterbuck is Native American, and Del has clear cognitive deficiencies. The film therefore doubles down on presenting these death row inmates as undeserving of their fate; instead of murderers, they are kind-hearted, genuinely good people, victims of a discriminatory justice system rather than authors of their own fates. In the book from which the movie was adapted, Del commits the atrocious crime of raping and murdering a young girl, setting her body on fire to cover up the crime, and inadvertently killing six more people. In the book, Arlen kills a man over an argument about a pair of boots. Both of these are heinous crimes that might make an audience less sympathetic. I therefore find the choice to gloss over their crimes for the movie to be particularly interesting, as it shows a marked interest in compelling the audience to only see the good in these two convicted criminals.

However, the film then presents one of the most heinous characters in all of the films I’ve watched. “Wild Bill” is the true murderer of the two little girls John Coffey is convicted of murdering. Wild Bill is beyond redemption. His every action seems to be for the sole purpose of causing pain or suffering. As much as the film evokes empathy for the other death row inmates, it seems to shout the necessity of the death penalty through its portrayal and dehumanizing of Wild Bill. Wild Bill is dehumanized because he is shown to be a one-dimensional character

whose only desire is violence without any reasonable motivation. Violence without cause makes a character unrelatable and therefore dehumanized because they no longer act with any humanity. Nothing deters him: not kindness, not solitary confinement, not even drugs. He is the prototypical criminal a person thinks of when they imagine the sort of criminal that deserves the death penalty. *The Green Mile* therefore remains ambivalent in the message it is trying to convey. On the one hand, it shows that capital punishment condemns innocent (John Coffey) and pitiable (Del and Arlen) people to their deaths. On the other hand, it is the only safeguard against pure evil like Wild Bill.

The film maintains this ambivalent middle ground in other ways as well. It presents miscarriages of justice, such as John Coffey's own lawyer saying he needed to be put down like a dog. In this way, the criminal justice system fails to afford John a fair trial or effective counsel. Yet, the film also presents the courts as too lenient and inept. Wild Bill killed the two young girls. He then killed three more women, one of them pregnant, before he was caught. If the police and the court system were more effective, and perhaps more punitive, some of those lives could have been saved.

Finally, *The Green Mile* shows the cruel and unusual nature of death row but also the frames of retribution and victim-motivated justice. Del's execution scene is particularly gruesome, as the sponge is not wet before it is placed on his head, therefore causing his entire body to smolder for several minutes while he writhes and groans. This scene alone could turn off a stalwart proponent of the death penalty. However, the death penalty is also presented as necessary for the purposes of retribution and victim-motivated justice. Paul, the warden, says, "He's paid what he owed; he's square with the house again," implying that the retributive aspect of the death penalty is in fact a sort of debt owed to society. The frame of victim-motivated

justice is made clear as the parents of the two murdered girls sit and watch John Coffey's execution, weeping. Overall, *The Green Mile* seems to touch on almost all of the arguments made both in favor of and against the death penalty. It is for this reason that upon finishing it, a viewer has no clear consensus about the message of the film. Added to this is the element of magic, which removes the film so far from reality that it could be difficult to take it seriously as a genuine critique on the death penalty, even if it decidedly was one.

### **Death Penalty Film Trends**

Finally, I will end this chapter with a brief discussion of the remaining death penalty films from this era. Two noteworthy events that happened in some of the films were executing the innocent and redeeming even morally reprehensible individuals. Bettwy writes that U.S. death penalty films have last minute stays of execution that prevent those who are wrongfully convicted from being executed.<sup>104</sup> This allows the audience to believe that the criminal justice system rectifies its mistakes and that the death penalty is only meted out on guilty persons. In the earlier era, we saw this theme with *A Covenant with Death*. The innocent man narrowly escaped being executed and was eventually freed. That is still a trope in this era. In *True Crime*, the first of the lethal drugs has been administered to the innocent man on death row but the execution is stopped just in the nick of time. The prisoner is freed and lives happily with his family, as if the trauma of being wrongfully convicted and nearly executed does not exist. While this is certainly the outcome the audience wants and it feels great in the moment, it excuses the audience from confronting the reality of the death penalty. In reality, few innocent people are exonerated before their execution. In presenting the feel-good ending, films allow the audience to continue with their lives without engaging in meaningful reflection on the death penalty. It is for this reason

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<sup>104</sup> The 1960-1975 era did show the execution of one presumably innocent person - Barbara Graham from *I Want to Live!*.

that I was impressed that innocent, gentle, good-hearted John Coffey is executed in *The Green Mile*. In showing the failure of the criminal justice system by killing a pure-hearted person for a heinous crime he did not commit, *The Green Mile* transcends normal boundaries of the genre and introduces a hard-to-swallow concept to its audience. Furthermore, this wrong is not taken lightly. Paul Edgecomb lives out the rest of his artificially-extended life feeling guilty for executing Coffey and living in expectation of one day also needing to become “square with the house.”

The other noteworthy theme in the death penalty films from this era is the presentation of convicts who have committed terrible crimes but who are nevertheless worthy of mercy. In *Dead Man Walking*, Matthew Poncelet and another man rape and murder two teenagers. While his crime is despicable and the film does not sugarcoat its brutality, Poncelet is still worthy of empathy. His execution scene is very emotional because of the conflict between knowing he did a terrible thing that requires justice and knowing that he is more than his worst act. The same theme is found in *Last Dance* and *The Executioner's Song*. All four of these films acknowledge the gravity of their protagonists' crimes, while still presenting the character in all of his/her complexity and allowing the audience to view the convict as human and worthy of compassion.

### **Conclusion**

Both the vigilante and death penalty film genres became more developed and complex during this era. Although the vigilante genre clung to some of its more demonizing tropes (criminals as senseless “bad guys” only intent on causing harm), it also branched into new, and perhaps less alienating, territory. In transitioning the bad guys from regular humans to beings that defy reality (*Batman* and *A Nightmare on Elm Street*), the focal point moved away from petty street thugs (*Death Wish*) or unhinged serial killers (*Dirty Harry*) and onto fantastical entities

that, for the purposes of this thesis, don't exist. Therefore, the audience can be scared of them while watching the film, but this fear does not bleed into everyday life. On the flip side of that coin, this choice might instead alienate criminals more from everyday society by poignantly exaggerating the inhumanity of criminal acts. Either way, this change in storyline signifies something new in the vigilante realm and shifts the focus from everyday criminals to more exotic makers of mayhem. As previously mentioned, this era of vigilante films also acknowledged the flaws of the vigilantes themselves. Bickle's (*Taxi Driver*) motivations are unclear, as he sometimes acts against non-existent threats (trying to assassinate the politician). Carrie (*Carrie*), although certainly traumatized by her fanatical Christian mother and by the bullying she faces from her peers, ends up killing everyone at her school besides one girl, a punishment which certainly exceeds their crimes. Furthermore, while threats, none of these people are criminals in the traditional sense. *Carrie* therefore also calls into question the notion that vigilantes are different from criminals because of their moral uprightness. The only real difference between vigilantes and criminals is moral imperative, so stripping that away can derail the vigilante narrative completely.

To take it one step further, the same is true of capital punishment. The only thing that makes capital punishment different from murder is its legal imperative which has come from the moral consensus of the people. By watching films about the death penalty that emphasize the humanity of the convicts and the cruelty of state-sanctioned execution, these films shake the comfortable complacency that the American people have with the death penalty. In exploring the boundaries of their genres, the films of this era presented new narratives and heightened the cognitive dissonance that audience members might feel about capital punishment upon watching these films.

## Chapter Four: Reassessing Who Deserves the Death Penalty from 2000-2021

In the third era this thesis is documenting, the present era of 2000-2021, the use of the death penalty has waned, as public support for it has decreased and executions have correspondingly tapered off. Of the 23 states that have abolished the death penalty, eleven did so between 2000 and 2021.<sup>105</sup> Three more states have governor-imposed moratoriums on executions, which all began after 2000. With 26 states currently not practicing capital punishment, the consensus of the United States concerning the death penalty may finally be shifting.

The mean result of films for this era was more positive than the means from the previous two eras. The mean was -.08. While still a negative number and therefore demonstrating that pro-death penalty frames continue to outweigh anti-death penalty frames, this is a significant shift from the mean of -1.4 from the 1960-1975 range. The mean of the death penalty films in this era was 3.17. The mean of the vigilante films was -3.33. As time passes, the overall mean score of the films has been approaching equilibrium and the mean of each genre of film has also been shifting towards more positive/ less negative numbers. This slow change in the themes of these two genres of popular culture texts related to the death penalty echo the gradual change in practice of the death penalty in the United States. As the two shift in conjunction with one another, it becomes all the more clear that public opinion and popular culture are inherently intertwined and therefore studying the trends of one is relevant to understanding our society as a whole.

As with the other two eras, I will again be looking at the film with the most positive score: *Just Mercy*; the most negative score: *Kick-Ass*; the fewest frames: *Monster*; and the most

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<sup>105</sup> Death Penalty Information Center (2022). State by State. *Death Penalty Information Center*.

frames: *Trial by Fire*, *Just Mercy*, *Trial by Fire*, and *Monster* are all death penalty films, which is why I will expand upon the other vigilante films of this era in my discussion of *Kick-Ass*.

Figure 8.

	Miscarriages of justice	Wrongful executions	Discrimination	Empathy for the condemned / criminal	Cruel and unusual nature of death row	Leniency/ Ineptitude	Community safety/ incapacitation / deterrence	Victim-motivated justice	Dehumanizing the perpetrator	Retribution	Total Score
<i>Memento</i> (2000)	0	0	0	0	0	-1	0	-1	0	-1	-3
<i>Monster's Ball</i> (2001)	0	0	1	1	1	0	0	0	0	0	3
<i>The Life of David Gale</i> (2003)	1	1	1	1	1	0	0	-1	0	-1	3
<i>Monster</i> (2003)	0	0	1	1	0	0	0	0	0	0	2
<i>Kill Bill: Volume 1</i> (2003)	0	0	0	0	0	0	0	-1	-1	-1	-3
<i>Man on Fire</i> (2004)	0	0	0	0	0	-1	0	-1	-1	-1	-4
<i>The Dark Knight</i> (2008)	0	0	0	1	0	-1	-1	0	-1	-1	-3
<i>Law Abiding Citizen</i> (2009)	0	0	0	1	1	-1	-1	-1	-1	-1	-2
<i>Kick-Ass</i> (2010)	0	0	0	0	0	-1	-1	-1	-1	-1	-5
<i>Trial by Fire</i> (2018)	1	1	1	1	1	0	-1	-1	0	-1	2
<i>Just Mercy</i> (2019)	1	1	1	1	1	0	0	0	0	0	5
<i>Clemency</i> (2019)	1	1	1	1	1	0	0	-1	0	0	4

### Recognizing Racism in Capital Punishment

At 99%, *Just Mercy* has the highest audience score on Rotten Tomatoes of all the death penalty films in this study. This film is beautifully directed, amazingly casted and tells an incredible true story: all qualities that have given the film more publicity than is common for

death penalty films. It centers around young attorney Bryan Stevenson, who confronts the racism of the Alabamian criminal justice system and exonerates his wrongfully convicted client, Walter “Johnny D” McMillian, who becomes the first Alabamian to be freed from death row. Most striking about *Just Mercy* is that it presents none of the pro-death penalty arguments. Most films about the death penalty at least show the victim’s family to signify victim-motivated justice or present the theme of retribution. *Just Mercy* does not do this.

The most salient anti-death penalty theme in this film is discrimination. Bryan Stevenson, as a Black man, is discriminated against and threatened by the police. His clients are all Black as well. The film could not be any clearer in its intent to show capital punishment as a racialized institution in the United States - one where skin color matters as much, and sometimes more, than innocence. Johnny D is arrested and convicted based almost entirely on the false testimony of one man - a fellow convict who receives a lesser sentence for acting as an informant and who was threatened into compliance by the guards. Other miscarriages of justice include ineffective counsel; the judge opting for a death sentence even though the jury elected life in prison; Johnny D. having an alibi that a multitude of people could have corroborated yet this alibi not being believed; and the officers putting Johnny D. and the jailhouse informant (as a fear tactic) on death row before Johnny D. had even had his trial. Furthermore, the film does not only present miscarriages of justice in Johnny D.’s case but the cases of many of the condemned. Seven or eight of the inmates had ineffective counsel, one was arrested because he “looked like the type to kill someone,” and one’s counsel did not mention the mitigating factor of his PTSD (which was relevant as it triggered his actions) at all during the original trial. The film shows many of the classic ways that defendants end up with sentences that outweigh what they could have gotten

with more effective counsel. This phenomenon is magnified by the racial factor, as almost all of these convicts are people of color.

*Just Mercy* develops the trend of showing the racial discrimination of death row that began in the 1976-1999 era. None of the 1960-1975 death penalty films featured Black death row inmates. The 1976-1999 era began to focus on the racialized nature of death row with *The Green Mile* and *True Crime*, which both have Black, innocent inmates at the crux of their narratives. However, these inmates are not the main characters in these films. *The Green Mile* is more about the life of the warden than about the condemned John Coffey. *True Crime* follows journalist Steve Everett rather than Frank Beachum, the innocent death row inmate in question, who is a peripheral character at best. This trend of hinting at the racist nature of the death penalty without really fleshing it out changed in the 2000-2021 interval. *Just Mercy*, *Clemency* and *Monster's Ball* are all either focused on the convicts themselves or their family and on the problem of racism within the system as a whole. This is a significant change within the death penalty genre. The discrimination within the institution of capital punishment and the broader criminal justice system deserves to find resonance on the screen and it appears it finally is in this era.

Another important aspect of the films from this era that are critical of racism within the institution of capital punishment is that the inmates are not presented as perfect characters. John Coffey and Frank Beechum of the 1976-1999 era were both innocent and undeserving of their fate. Some of the condemned in *Just Mercy*, *Clemency* and *Monster's Ball* are not innocent. They are redeemable, but it is not their innocence that makes them worthy of rehabilitation. This is important because the problem of racism needs to be addressed in a holistic manner which can't be done if the audience only feels sympathy for the innocent people of color on death row. Americans should be confronted with the racism of the system and understand the injustice

inherent in an institution that punishes a larger percentage of one race than another. Most importantly, the public should recognize that this is wrong regardless of guilt or innocence. This shift in focus of death penalty films seems to be a growing trend that resonates with the animus of the current time. The Black Lives Matter movement, affirmative action and a general push towards acknowledging and changing racist institutions have been political and social trends since the turn of the century. This may be why these same themes are starting to become more prevalent in popular culture texts.

*Just Mercy* also presented the themes of the cruel and unusual nature of death row, empathy for the condemned and wrongful executions. In following the stories of Johnny D, Ray and Herbert Lee Richardson, the audience is presented with two innocent inmates and one who is guilty of the crime but was not in his right mind when he committed it on account of PTSD from the Vietnam War. In all three of these cases, the audience feels immense empathy for the condemned, because all three men are good people. The theme of wrongful execution is present in this film because, even though they are eventually exonerated, Johnny D. and Ray, two innocent people, are both sentenced to the electric chair. Finally, the film shows cruel and unusual punishment in the psychological anguish of those close to the death row inmates. Johnny D.'s family and his attorney, Bryan, are negatively impacted by the fear and pressure associated with Johnny D.'s impending execution date. The jailhouse informant also explains how the guards placed him in the cell closest to the electric chair so that he could smell the flesh burning; the fear he felt at meeting the same fate is what caused him to provide false testimony against Johnny D. To be fearful enough to provide false testimony and condemn an innocent man to death (testimony he later recants) is an indication of the cruel and unusual nature of death row. *Just Mercy* is perhaps the most anti-death penalty film on this list. Not only does it present no

reasons for keeping the death penalty, it unequivocally shows the injustice and negative effects of the death penalty. This presents an incredible shift in narrative from the older death penalty films that could be construed as ambivalent in their admonition of capital punishment.

### **A Twist in Vigilante Films**

On the opposite side, *Kick-Ass* presented all five of the pro-death penalty frames and none of the anti-death penalty frames. *Kick-Ass* tells the story of a high school student named Dave Lizewski who decides to confront crime in his city by dressing up as a superhero. In the course of his endeavors, he comes up against Mafia boss Frank D'Amico. Meanwhile, Hit Girl and her father, Big Daddy, are also acting as vigilantes, training to take revenge on Frank D'Amico for being involved in his wife/her mother's death. Although this film certainly preserves and continues the general mainstays of the vigilante genre, it also breaches new territory. *Kick-Ass* is one of the only true comedies of the vigilante genre. For this reason, the messages it presents are conveyed differently than other vigilante films. While it shows the theme of community safety by over-emphasizing the prevalence of crime, it does so in a humorous manner. The message is therefore made more subtle. Presenting the criminals in a humorous light might suggest that *Kick-Ass* is breaking from traditional vigilante values by showing that criminality is a smaller threat than political rhetoric makes it out to be. However, it might instead just be another, more palatable way of getting the same message across: criminals are everywhere and need to be incapacitated.

*Kick-Ass* is also a spoof on the traditional superhero movie. Dave is a superhero without any powers, training, resources or weapons. Unlike Paul Kersey or Batman, Dave is not successful in any capacity at his endeavors for community safety. The first time he tries to prevent a mugging, he ends up getting stabbed and hit by a car. Subsequent attempts are equally

ineffective, and it is only because of some other “superheroes” who are trained in combat that he is not fatally injured. In spite of the main character’s ineptitude, the theme of community safety is very prevalent in this film. As is common to vigilante films, muggers and thugs are in no shortage and Dave does not have to travel very far in order to find someone in trouble. The film also presents the frames of retribution and victim-motivated justice, as the other superheroes (Hit Girl and Big Daddy) are intent on avenging a lost loved one.

*Kick-Ass* is also traditional in its presentation of leniency/ ineptitude of the police and courts. The police are not present at any of the crimes. When Dave asks bystanders to call 911, no one does. The sole role the police have in the film is one of corruption, for the Mafia boss Frank D’Amico buys them off and enlists them to further his own goals. The amateur vigilante superheroes are the only people acting in the public’s best interest, once again presenting the anxiety that due process must be subverted in order to have community safety.

*Kick-Ass* departs from the traditional manner of dehumanizing the perpetrators, but nevertheless presents this theme. What is different about this film’s dehumanization of the perpetrators (Frank D’Amico and his Mafia gang) is three-fold: the presence of humor, significant screen time and being part of the white hegemony. The presence of humor means that these criminals are difficult to take seriously. Even as they torture one of their own members, it has little affect on the audience because it is cliché in a laughable manner. Their significant screen-time also diverges from most vigilante films. These villains or bad guys are not fleeting characters that only show up in one scene to be vanquished. Nor are they maniacal serial killers whose only purpose is to cause devastation. Instead, they have numerous scenes and are motivated by financial desires; they murder people for a reason instead of just for chaos. Finally, what makes them different is that they are members of the white hegemony. As has been

discussed, hippies and Black people were the typical villains in the vigilante films of previous eras. They were rarely members of the white hegemony. However, Frank D'Amico and his gang are members of white corporate America. They dress in formal business attire, sit in the wealthy echelons of society and deviate in no way from normative social expectations. Yet, they are murderers. This is a significant variation from the typical vigilante trope of presenting the perpetrators as characteristically different from normative values in society. Frank D'Amico and his crew blend right in. Nevertheless, they are dehumanized because of the criminal acts that they commit without remorse. In blowing up one of their own members in a microwave-like contraption and in attempting to kill Kick-Ass (Dave) even though they've learned he is no threat to them, they - and especially Frank - show a deficit in human emotions such as compassion or mercy. Despite straying from the vigilante-style norm in its presentation, the film nevertheless dehumanizes its perpetrators.

*Kick-Ass* is only one example of the deviations to the vigilante genre that occurred in the 2000-2021 period. The story-lines in general were more complex. *Memento* and *Law Abiding Citizen* branched off significantly from the plots of vigilante films in the past. *Memento* is about a man with short-term memory loss who is intent on finding the man he believes killed his wife. In the end, it turns out that he is the one who killed his wife by giving her too much insulin because he couldn't remember he had already given it to her. In effect, his quest for vigilante justice is a complete farce, as the only demon he is hunting is his own inability to remember. *Law Abiding Citizen* shifts the objects of pursuit from petty thugs to the criminal justice system itself. Enraged with his attorney that his wife and daughter's murderer got a plea deal, Clyde Shelton makes it his mission to torment his attorney and enact revenge on the criminal justice system from behind the walls of his own prison cell. His attorney, Nick, had taken the plea deal because

he didn't want to risk tarnishing his high rate of conviction. However, Nick is the protagonist in this film. While the audience feels sympathy for Clyde for the loss of his family, the way he tortures, punishes and kills many innocent people in the pursuit of his "justice" alienates him from the realm of compassion. Although Clyde also tortures the man who killed his family, he is far more intent on punishing the courts and Nick for caring more about procedure and reputation than justice. The message of the story suggests the need for stricter punishments for criminals and the necessity of attorneys who fight for justice instead of taking the best deal for their career. However, it also stresses the need for law and order; vigilante justice is no justice at all.

*Kill Bill: Volume 1* is another film from this era that breaks from vigilante norms. The film is about The Bride, a trained assassin who was betrayed by her gang and her fiance on her wedding day, shot and left for dead. The Bride hunts down the members of her gang, bent on murdering everyone who betrayed her. Again, this is not the same narrative as the 1960-1975 or 1976-1999 eras. This is not to avenge an innocent civilian who's been mugged and killed. This is a trained assassin seeking revenge on other trained assassins. The public doesn't need to be concerned when they watch this film, because unless they are trained assassins, this storyline is completely out of the realm of what could feasibly happen to them. Anyone might be concerned about being mugged, and this fear might be amplified by watching it happen on screen. But the storyline in *Kill Bill: Volume 1* exists outside of the agitations of normal life. It exists purely for entertainment, not as an expression of the anxieties of the public.

*Man on Fire* and *The Dark Knight* were the only two films from this era that predominantly stayed in the preexisting borders of the vigilante genre. *Man on Fire* follows the tried and true contours of the genre by basing the plot around the kidnapping and supposed murder of an innocent young girl. Her bodyguard believes she is dead and searches for the

person responsible, killing anyone even tangentially related to the crime. There is nothing different about this film: it shows arbitrary designations of good and evil with the goal of eradicating all the “evil”.

*The Dark Knight*, while it explores new layers of the Joker/Batman relationship and provides critical commentary on society, does not stretch beyond the boundaries of the vigilante genre to the same extent as some of the other films from this era. However, one important way in which it does shift the narrative is in Batman’s inability to kill the Joker. Dudas argues that Batman can’t kill the Joker because they are two halves of the same whole.<sup>106</sup> The Joker represents all of the repressed emotions on the part of Batman. If we give credence to this theory, this would suggest a significant departure from the vigilante genre, as in this case the vigilante and the criminal are inherently tied together as the vigilante hero fights to suppress his criminal side without ever really being able to kill it completely. This calls into existence the tenuous identity of the vigilante, as a person whose only demarcation from a criminal themselves is in their moral imperative. In this film, the criminal becomes something the vigilante needs and cannot simply exterminate. In presenting the vigilante as being but one step removed from the criminal, *The Dark Knight* materializes a truth that has always been present in the vigilante genre: the vigilante is just another criminal.

### **Are Murderers Always Monsters?**

The film that presented the fewest frames was *Monster*. The film tells the true story of Aileen Wuornos, a sex worker who is almost killed and brutally raped by one of her Johns. She kills him and attempts to find a new means of work to support her and her new girlfriend because of the trauma of this event. However, due to her lack of resumé and references, she is soon back

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<sup>106</sup> Dudas, J. R. (2021). “You Complete Me”: Batman, Joker, and the Countersubversive Politics of American Law and Order. In *Studies in Law, Politics, and Society*. Emerald Publishing Limited.

to sex work and begins killing Johns who pick her up. In my interpretation of the film, I see Aileen as being too traumatized by her near-death experience to put herself in a similar position, and she therefore kills the men out of necessity - she needs their money - and justifies doing so because they are seedy men. Perhaps there is an element of retribution, but Aileen tries to leave sex work rather than immediately begin killing men after her assault. It is for this reason that I attribute her murders not to revenge or victim-motivated justice, but to necessity. She needed money to survive and could not earn it another way. However, eventually Aileen kills a man who was genuinely trying to help her and had picked her up as a hitchhiker instead of as a sex worker. It is at this point that Aileen realizes she has crossed the line from self-defense to cold-blooded murder. In many ways, this is not the traditional death penalty movie. It is not until the end of the film that Aileen is caught, tried and convicted. The audience does not see Aileen's execution; instead the confirmation of her execution is a text block that comes on the screen right before the ending credits. There is no legal struggle for an appeal or scenes of languishing on death row. This film is therefore very different in content from many of the other death penalty films in this study.

*Monster* shows the frames of discrimination and empathy for the condemned. Aileen is discriminated against as a sex worker in the courts and in her struggle to find a job. Aileen reveals that she had to become a sex worker because her father committed suicide and no one would take her in. This reveals another layer of discrimination: class-based discrimination. As is common, it is not the rich that go to death row; it is the poor, who have made a lot of difficult, illegal decisions due to their lack of resources and who again suffer from this inequality by having inept legal counsel.

Aileen's circumstances and inability to overcome the struggles of her childhood despite her ardent efforts lend her to be a sympathetic character. She reveals that she was eight when her father's friend began frequently raping her. After her father's death, she began sex work as a way to make money and would give some of this money to her siblings, who later shunned her because they were ashamed of her. Aileen has no home and lives day to day on the money she earns from sex work. Her entire existence is one of misery, and it is only through her relationship with Selby, her girlfriend, that Aileen receives any love at all. It is for this reason that despite the heinous acts Aileen commits, she garners a lot of empathy and sympathy. She is not the bloodthirsty Scorpio of *Dirty Harry*; instead, she is a traumatized woman searching for love and meaning in her life despite all of the hardships she has faced. In showing Aileen in her complexity, the movie allows the audience to see past her worst acts and perhaps hope for a better alternative to the death penalty for a woman who has already suffered so severely during her life. Although *Monster* only presents two of the ten frames, it nevertheless informs its audience about those condemned to the death penalty through this true story of loss and hardship. And at the end of the film, the viewer must ask themselves, "Is Aileen Wuornos the kind of person that deserves this fate?"

### **Innocent but Ornerly**

Who deserves the death penalty is again questioned in *Trial by Fire*, another film based on a true story. This film presented eight of the ten pro- and anti- death penalty frames. Similar to *The Green Mile*, *Trial by Fire* showed arguments from both sides of the table. However, unlike *The Green Mile*, there is no doubt about which way the film leans; it is definitely anti-death penalty. The protagonist in this story is Cameron Todd Willingham, and it tells the true story of his wrongful execution. He was convicted of murdering his three young daughters by arson. The

experts at the time had decided that the fire was started by hand and that he had therefore purposefully killed his children. However, by the end of the film, it becomes apparent that the fire had been caused by a broken heating system and that there was likely nothing Todd could have done. Nevertheless, he is executed.

What is most important in this film, for the purposes of this thesis, is that Todd is no angel. He had been convicted of a series of lesser offenses before the fire. He and his wife, Stacy, are both abusive to one another. He is callous and disrespectful. This is not a pure-hearted John Coffey or Johnny D.; Todd is a deeply flawed individual. However, the film forces the audience to confront the injustice of the death penalty as his flaws should not have so deeply prejudiced the system against him so as to all but sign his death warrant.

The film presents all five of the anti-death penalty frames. Todd is discriminated against based on his class and prior arrest record. The theme of wrongful execution is present as he is innocent of the crime. There are countless miscarriages of justice in his trial. Dr. Death is the expert psychologist brought in to testify to his future dangerousness (the same doctor as in *The Thin Blue Line*). The forensics team inaccurately interprets the fire evidence, which is pivotal to him being convicted (with technology that is developed after his sentence, a scientist confirms that the fire was not caused by an accelerant). The testimony of one of the witnesses was fake. Todd's lawyer did not object to any of the defamatory statements presented by other witnesses and no alternative evidence was presented at his case. His appeal is stamped "denied" without anyone even reading it. All of these occurrences point to the brokenness of the criminal justice system, and the film does not sugarcoat this critique. While in prison, one of the other inmates (a Black man) says, "You know why it's called capital punishment? Because if you don't got no capital, you get punished for it... Why was I born black and why were you born poor and stupid?"

Twice as many deaths in election year”.<sup>107</sup> Todd’s own attorney says, “The system doesn’t work; it’s broken.” The focus in the film of the failures of the criminal justice system, especially in regards to capital punishment, puts forward a strong opposition for capital punishment.

In spite of Todd’s character flaws, the film compels empathy for him. He is devastated by the loss of his daughters and begins hallucinating the oldest and talking to her. His wife stops responding to his letters, and he seems entirely alone in the world. Eventually, playwright Elizabeth Gilbert forms a friendship with him, and he begins to look to her for support and care in the last years leading up to his execution. The cruel and unusual treatment he receives on death row also builds empathy for him. The warden calls him “baby killer” and explains in detail how agonizing his death will be. The guards beat him up and then lock him in isolation for days. He is also on death row for 12 years before he is executed; 12 years that he sat and hoped one of his appeals would go through. The film presents all five of the anti-death penalty frames in a full and thorough manner and leaves no doubt in the audience’s mind that its message is that capital punishment is wrong.

The film shows the pro-death penalty side very briefly. On the radio, a talk show host says that there was always something off about Todd, that he needed to pay for killing his daughters and that his daughters deserved justice. This small excerpt presents the themes of community safety, retribution and victim-motivated justice. The guards also propel the frame of victim-motivated justice by calling Todd “baby-killer” and telling him he’ll die for what he’s done. The themes are therefore undeniably present in the film. However, the film does not give any credence to these arguments. In fact, later, one of the characters says, “It’s just revenge. Isn’t that a little primitive?”<sup>108</sup> Despite presenting some of the pro-death penalty frames, the film

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<sup>107</sup> Zwick, E. (Director). (2018). *Trial by Fire* (Film). Roadside Attractions & Bedford Falls Productions.

<sup>108</sup> This is one necessary flaw in my research design. I must document all instances of every frame, regardless of if the tone of the film seems to agree or disagree with that frame.

negates these frames as being valid. Although it is mainly focused on one case, it extends its admonition of the death penalty to the broader institution rather than merely presenting Todd's case as an anomaly of the system getting it wrong.

A clear reproof of the death penalty is also present in *The Life of David Gale*. The movie is about a man named David Gale who refused to have sex with a student to give her a higher grade but later does have consensual sex with her. She files a rape charge against him out of spite which she later drops but which ruins his reputation and costs him his family. His passion project is abolishing the death penalty. One of his former coworkers is also passionate about the death penalty and is dying from cancer. Having lost everything, Gale allows himself to be framed for the murder of his coworker, who actually committed suicide. They have the idea that if David is executed for her "murder," they can prove that other innocent people have been executed as well. They keep a video of her death so that David Gale can be exonerated at any time. However, he is executed without releasing the film, and it is only after his death that the video is released, thereby proving that the death penalty executes innocent people. Like *Trial by Fire*, it presents certain pro-death penalty frames. However, this film is clearly against the death penalty. Ultimately, pro-death penalty frames are shown, refuted and overshadowed by the arguments against the death penalty.

## **Conclusion**

The main takeaway from the death penalty films of the 2000-2021 era is rejection of the death penalty. *Clemency*, *Just Mercy*, *Trial by Fire* and *The Life of David Gale* all oppose the death penalty on what appears to be a holistic basis rather than a case-by-case judgment. This is a notable change from the previous two eras that highlighted individual cases rather than the system as a whole. The reason for this could be a more receptive audience. As the crime control

narrative has slowly waned in political rhetoric, as Americans have begun to acknowledge the racism of institutions (and the criminal justice system more specifically), and as public opinion has started to even out regarding support for capital punishment, filmmakers may be noticing and responding to this shift in American ideology. Or perhaps they may be precipitating this shift, knowing that their films will find more receptive viewers than they would have thirty years ago. Perhaps they are creating these films based on the unspoken animus of the people that is more felt than heard. Whether the chicken or the egg came first, films about the death penalty are taking stronger stances supporting abolition. Particularly interesting is that three of the death penalty films in this study from this era have come out within the last four years. This seems to hint at a change in acceptance and interest in films about the death penalty that differs from previous eras.

Vigilante films also changed in their content during this era. The storylines became more complex and the vigilantes and their targets became more conflicted. In some cases, the targets were relatively innocent individuals; *Law Abiding Citizen*'s vigilante targets his attorney who had not committed a crime by taking the plea deal and *Memento*'s vigilante kills a man who had never done anything to him besides try to help him. The vigilante narratives also departed from realistic societal anxieties to scenarios that are far removed from the realm of the commonplace. *Kill Bill: Volume 1* pits assassin against assassin and *Kick Ass* and *Man on Fire* have villains that are distanced from ordinary crime - the Mafia and drug cartels. The vigilante and death penalty films from the 2000-2021 era departed significantly from their earlier counterparts. Although certain hallmarks of the genres stayed the same, both showed new ideas and complexities that elevated their messages beyond their more primitive trope of countersubversion.

## **Chapter Five: Changes in Time in Representations of the Death Penalty**

The content and messages of vigilante and death penalty films have changed significantly since 1960. These changes have corresponded to the political consciousness of the time, correlating with shifts in public opinion. I therefore find it necessary to reflect on the changes over time of the vigilante and death penalty genres and discern what these changes may entail for the institution of capital punishment in American society.

### **Vigilante Films**

It may be tempting to argue that the vigilante genre has not changed significantly since the 1960's. On the surface, this assessment would be true; the predominant storyline of "bad guy must be stopped by extralegal forces" has remained the same. However, as documented in my discussion of the vigilante films from the three eras, the way in which this story has been told has become increasingly nuanced and suggests a shift from the original crime control narrative. If the vigilante film was originally created to demonize elements of American society that were not mainstream (politics of countersubversion), this vendetta has lost some of its virulence in modern vigilante films. Indeed, the vigilante film genre has changed to the point where the "bad guy" may equally be a white mastermind CEO of a large corporation as a petty thug with dark skin. While it has certainly retained elements of its crime control thrust, the vigilante genre has evolved in key ways that have broader implications for the future of the death penalty, if vigilante films are to be taken as a significant source of pro-death penalty rhetoric. These trends are the building of complexity within the characters of the bad guys; the de-emphasis of people of color and hippies as criminals; the distancing of the storylines from real-life plots or everyday occurrences; and the presentation of fewer pro-death penalty frames as a whole.

### **Complexity within the Criminal Archetype**

Consider the 1960-1975 villains in *Death Wish* or *Dirty Harry* or *Batman*. These villains were so devoid of humanity that their rapacious nature would render them comical in its incredulity, if not for the vile character of their crimes. While money appeared to sometimes be a motive for their actions, these villains were just as often presented as committing their crimes for no apparent motive besides wanton chaos. As discussed by Tyler & Broeckmann, their actions threatened societal order and moral cohesion, and their demise was required in order to restore order to society.<sup>109</sup>

Compare these villains to the villains of the 1976-1999 era. Although there were still cases of undeniable evil (Freddy Krueger from *A Nightmare on Elm Street* or the posse that murdered Eric and his girlfriend in *The Crow*), there are also more nuanced villains in this era. Take for example, Carrie's mom or the school bully, Helen, in *Carrie*. These are not savory characters but one is guided by religious fanaticism and personal trauma and the other is only a teenager with time to mature. Another example is *Taxi Driver*. While certainly exploitative, seedy and emotionally manipulative, the man pimping out Iris in *Taxi Driver* is not so violent a character as to warrant his murder. These villains are quite different from the villains in the 1960-1975 era, who have no redeeming qualities or explanation of what made them so rotten in the first place. Even the 1989 *Batman*'s Joker is a more complex character than in the 1966 version. While Jack Napier before and after his transformation into the Joker is an evil man, he also has his moments of charm and distinguishment that distance him from the simple evil of the earlier era villains. There are even moments where he is almost likable.

Finally, the 2000-2021 era further complicated the character of the criminal, creating complex antagonists in some cases. For example, in *Kill Bill: Volume 1*, significant screen time was given to narrating O-Ren Ishii's backstory of becoming one of the most deadly assassins in

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<sup>109</sup> Tyler & Boeckmann (1997). Three Strikes and You Are Out.

the world. O-Ren is one of the assassins that aided in the attack on The Bride at her wedding. However, the audience learns that she was once a victim herself and witnessed the murder of her parents at the hands of the yakuza. Her own path is therefore one of the vigilante as her primary targets are those that killed her parents. To dedicate so much time to telling the villain's story and building complexity to her character indicates a shift from prior vigilante films where the only screentime a villain got was while they were committing crimes. In *Memento*, there is no villain. If anyone is the villain, it is the protagonist himself, and to call him a villain would be a far-stretch due to his memory impediment that causes him to believe certain things that are not true. And in *Law-Abiding Citizen*, the vigilante Clyde Shelton may be right to feel wronged by the criminal justice system, but he enacts revenge on many innocent parties that had no direct part in his misfortune. Clyde behaves in as depraved a manner as any common criminal in his desire to make the whole system pay. Again, apart from the criminal he dispatches of in the beginning of the film, there is no clear-cut "bad guy" or villain.

Through a deliberate analysis of the villains in these vigilante movies, it becomes clear that the shape and function of the villain has changed over time. I believe this change is being reflected in other genres of film as well. For example, Disney has begun creating films - *Maleficent* and *Cruella* - that paint their archetypal villains in different lights and give them backstories that explain what appear on the surface to merely be cruel acts. Films in general seem to be taking a step away from pretending there is pure evil and pure good and instead are presenting the gray areas of moral standing. This means for the vigilante genre that there is more to think about for viewers watching these films. Instead of the utter revulsion one might have felt at Scorpio, they might have to mull over their conflicted feelings about The Joker (*The Dark Knight*) or O-Ren Ishii. Presenting the antagonists in more complex lights may in turn cause the

public to view criminals with more nuance and recognize them as human beings in spite of their worst act.

### **Stepping Away from Countersubversion... Potentially**

Along these same lines, vigilante films have shifted in *who* they present as the bad guys. The films used to target fringe members of society. This included people of color - especially Black men - and hippies. This has shifted in the vigilante genre. This was something I reflected on as I watched *Iron Man 3* (2013) the other day. While this film is not included in my study, it tells a classic vigilante tale of revenge and community safety. The villain in this film is the Mandarin, who is an Islamic, or at least Middle-Eastern, terrorist. However, it turns out that the man acting as the Mandarin is just that - only an actor who has been hired to play a role. The real person behind the terrorist attacks is white, rich, CEO Aldrich Killian. I bring up this film because I think it perfectly illustrates the shift we have seen in vigilante films regarding who gets villainized. *Iron Man 3* presents the person of color as the villain, but then reveals that it is actually a member of the white hegemony who has been committing such atrocious crimes. The reversal of what was once the common trope appears to be a deliberate upending of the racism that the vigilante genre once exhibited.

As I watched the 2021 version of *Candyman* recently, I was again shocked at how far vigilante films have come. The original *Candyman* (1992) had elements of societal criticism for the way that Black people have been subjugated and violently killed. However, the story was ultimately about the white Helen Lyle, the white, suburban, middle-class, “deserving” victim, not the Black community. The 2021 *Candyman* reclaimed the vigilante narrative for Black Americans. In this sequel to the original, the collective trauma of the Black community of Cabrini Green manifests itself into a spectral vigilante that will avenge and protect its community

members who for so long had been violently murdered by white people in positions of power. This utter reversal of the typical players in vigilante films spoke volumes to me about the future of the vigilante genre and the political consciousness of the United States.

I have also seen this shift in the vigilante films included in this study. The demographics of villains shifted from poor whites, people of color and hippies to wealthy white elites (*Kick-Ass*), average Joe's (*Memento*) and mixed-race gangs (*The Crow*). Of course, there are films that retain racist stereotypes of who is a villain. Take, for example, the *Taken* franchise. Instead of Black people, the narrative has shifted to those with Islamic or Arabic roots as the criminals. This is because after 9/11, American politics stereotyped this race of people as threats, and we therefore see it in our popular culture. Arabs are a new imagined subversive to counter. However, apart from this new target for villainization, the vigilante genre seems to be displaying growth in its diversity about what a bad guy looks like. The variety of villains is important as it begins to chip away at harmful stereotypes. Between the added complexity of villain characters and their storylines and the added diversity of villain demographics, the vigilante genre has changed significantly since 1960 in what I consider to be a refreshing and more nuanced direction.

What this means for the death penalty is that our popular culture texts are beginning to tell stories in shades of gray. In presenting new types of villains, the collective image of who our worst criminals are (the ones that deserve the death penalty) may shift. And our belief that they are the worst criminals may shift, as we learn their backstories and motivations for the heinous crimes they commit. Ultimately, adding dimensions to characters makes them more relatable, and it is harder to root for the death of someone to whom you can relate. I therefore find this change in the vigilante genre to have potential ramifications for public support of the death

penalty as people may absorb these nuanced stories and begin to question what, if anything, makes a person so irredeemable that the only option is to sentence them to death.

### **Embracing Fantasy**

The other change over time in the vigilante genre is the distancing of the storylines from what is considered normal life. The muggings and shootings that precipitated vigilante action in the 1960-1975 era are no longer the predominant plot in vigilante films. Instead, some films have introduced supernatural and fantastical elements that negate some of the reality of the film (*The Crow*, *Batman*, *Carrie*, *A Nightmare on Elm Street*, *The Dark Knight*). Other films have chosen plots that simply wouldn't happen to the average American (*Kill Bill: Volume 1*, *Memento*, *The Boondock Saints*). In all these films, the crimes that precipitate vigilante action are far more complex than a simple mugging or homicide that could happen to anyone. This suggests that the vigilante genre is becoming less absorbed with the crime control narrative. Everyday citizens are no longer the normal casualties of the vigilante genre. While this may seem like a small change, it may signal larger changes in American perceptions of threat. If crime is imagined as distant from everyday life, the death penalty may no longer be necessary as a tool of community safety and deterrence.

What also leads me to believe that these changes in the vigilante genre may impact American reliance on the death penalty is the trend toward fewer pro-death penalty frames in vigilante movies. The mean of the vigilante films in the 1960-1975 range was -4. The mean from the 1976-1999 era was -3.67. The mean from the 2000-2021 period was -3.33. Perhaps this trend would not play out with a larger sample. However, considering that the films in this sample are the most widely viewed and popular vigilante films of the last 60 years, my findings are important because these films are relevant and being consumed by large scores of people. If the

trend of our most popular films is shifting away from such strong pro-death penalty sentiments, then this may reflect a general shift in attitude about the death penalty. While I grant that the shift is only .67 over 60 years, in conjunction with the other changes to the vigilante genre, it shows a continuing trend away from pro-death penalty values. Therefore, although the vigilante genre may never completely turn its back on pro-death penalty rhetoric, it nevertheless is shifting away from staunch pro-death penalty frames and finding complexity within its boundaries.

### **Death Penalty Films**

As with the vigilante genre, the death penalty genre has undergone some small, but significant changes that may have ramifications for public support of the death penalty. The mean of the death penalty films for the 1960-1975 era was 1.2. The mean for the 1976-1999 era was 2.25. The mean for the 2000-2021 era was 3.17. This shows a significant shift in the direction of anti-death penalty frames. I now turn to what changed within the content of the films over time.

### **The Institution is Broken**

The first trend that merits discussion is the gradual adoption of presenting messages that condemn the institution as a whole, rather than on a case by case basis. In the 1960-1975 era, *I Want to Live!*, *A Covenant with Death*, and *The Execution of Private Slovik* all focused on one individual story within the larger institution. The audience could feel indignation at the respective fates of Barbara (*I Want to Live!*), Bryan (*A Covenant with Death*) or Eddie (*The Execution of Private Slovik*). However, this indignation did not need to extend to the broader institution because the movie made no such claims that the institution as a whole was broken. Some of the films from this era did not even condemn the death penalty on an individual basis. *In Cold Blood* presents as many pro-death penalty frames as anti-death penalty frames and never

argues that the death penalty was wrong for even the two characters it follows throughout the film. It is interesting that the film ends with the reporter commenting that Dick and Perry's executions will have no impact on crime, but apart from that, the film makes no case for abolition: not for Perry or Dick, or for anyone else.

It is therefore fascinating to watch how condemnation has shifted dramatically from individual cases to the institution as a whole in the 2000-2021 era. The films of the 1976-1999 were very case-based like the era before them. Although *The Green Mile* showed numerous sympathetic death row characters, it also included a death row inmate who was genuinely rabid (Wild Bill) and who demonstrated no capacity for rehabilitation. Therefore, *The Green Mile* seemed to suggest that we need to keep the death penalty around for special cases like Wild Bill. This changed in the most recent era. *Just Mercy*, *Clemency*, *Trial by Fire* and *The Life of David Gale* all show negative impacts of capital punishment outside of the main character on death row. In *Just Mercy*, it is not only Johnny D. who inspires compassion, but also wrongly convicted Ray and guilty, but mentally ill, Herbert. Their stories are presented as emblems of the narratives of those on death row. *Clemency* displays not only the mental toll on one of the inmates scheduled to be executed, but the toll on his lawyer, the warden and other officers at the prison. At the end of the movie, Bernadine (the warden) is weeping as she executes Anthony (the inmate). This movie demonstrates the broader toll the death penalty has on those who are acquainted with it through work. *Trial by Fire* mainly focuses on Todd's story, but in his interactions with other inmates, the movie shows a general disapproval of the death penalty that extends beyond Todd's story and seeps into the institution as a whole. Finally, the entire concept of *The Life of David Gale* is about the struggle of abolitionists to convince the Texas governor to issue a moratorium on capital punishment in Texas. These films share in common a denunciation of the death

penalty to a degree that was not present in the earlier eras of films. While there were still films from this era that focused on specific cases, the overall shift in theme is important to note as it could have ramifications for support for the death penalty.

### **Declining Prison Conditions**

Showing the cruel and unusual nature of death row could be a coercive strategy to building support for abolition of the death penalty. The presentation of good prison conditions and kind treatment of the condemned by corrections officers has significantly decreased since the 1960-1975 era. Consider the prison conditions for Barbara Graham (*I Want to Live!*) versus those for Cameron Todd Willingham (*Trial by Fire*). When Barbara was instructed to wear the prison uniform instead of her lingerie to sleep in, she declared that she would sleep naked if not allowed to wear her own clothes. The guards allowed Barbara to continue wearing the lingerie. Barbara received dental work close to the time of her execution. She was allowed to have close contact with her baby boy when he visited. Bryan Talbot of *A Covenant with Death* also suffered less abuse on death row than many characters from later films. He was able to play cards while in prison and was treated fairly by the guards. He even killed the executioner and received another trial instead of being corporally beaten. Eddie Slovik of *The Execution of Private Slovik* was also treated fairly while on death row. The chaplain was very friendly to him, and he received paper and writing utensils to draft his appeals. While the situation he was in is tragic, he was not mishandled by the prison system. These three 1960-1975 films present the prison system in a flattering light. Their experience on death row is less cruel than the experiences of some of the other inmates we see in later films.

*Convicts 4* and *In Cold Blood* (the remaining two death penalty films from the 1960-1975 range) were harsher in their presentations of the realities of prison life. John Resko (*Convicts 4*)

witnessed another man commit suicide because of his misery in prison, suffered from severe bug bites, was almost killed by his cellmate and was thrown in isolation for four months. All of these are depressing realities of prison life that do not sugarcoat the situation. However, he was not corporally punished or demeaned to any great extent by the guards. The warden wanted for him to rehabilitate and be released and made every effort for this to happen, despite Resko's numerous attempts to escape illegally. In spite of Resko's insurrection, he was shown compassion and offered redemption, which is not the norm among later death penalty films.

*In Cold Blood* presents some of the cruelties of death row but does not linger on these realities. While it is mentioned that Dick and Perry spend five years on death row and that these years are spent in close confinement without distractions like books or exercise or games, this time is not shown to any great extent. The audience cannot feel the interminably long time the two have been awaiting their execution dates because that period takes up so little time in the film. In this way, although *In Cold Blood* does mention the cruelty of death row, it glosses over it so that it is not a sticking point in the viewers' minds. As with the other death penalty films from 1960-1975, the cruel and unusual nature of death row is displayed in a muted and peripheral manner.

This is very different from the films of the latter two eras. The inmates of these later films are not allowed the luxury of talking back or disrespecting the prison staff. They are punished for insurrection (beaten, thrown in isolation or verbally abused) and these punishments are meted out generously. The cruelty of death row is therefore more salient in the later films. The execution scenes themselves are also more belabored and poignant. Del's execution scene in *The Green Mile* is long in duration and violent as the film shows him seizing and sizzling before fully catching on fire. *Clemency* also shows a botched execution, and the inmate begins gagging and

violently shaking when the lethal injection goes in his arm. By then, it is too late and his final moments are spent with him writhing in agony as his mother looks on. Cameron Todd Willingham (*Trial by Fire*) is beaten by the guards for starting a fight and thrown in isolation for days. Matthew Poncelet (*Dead Man Walking*) describes how he is kept in his 6 by 8 foot prison cell for 23 hours out of the day with no exercise. He says that he feels “like a sow being fattened up for Christmas dinner”.<sup>110</sup> All of these scenes depict capital punishment at its worst. While the films from the earlier eras did highlight some of the cruel aspects of capital punishment, I believe the latter films show the cruel and unusual nature of death row to a much greater extent. As punishments that are cruel and unusual are illegal under the Constitution, this may be a very conscious choice to suggest to viewers and policymakers alike that the death penalty is not constitutional.

### **Death Penalty Films: Acknowledging the Racism of Death Row**

There are numerous problematic types of discrimination that lead to higher death row sentences for certain demographics over others. While all forms of discrimination are wrong, I think it is very important to discuss the racism of the death penalty specifically. Black people, despite being under 20% of the total population, account for 43% of the total executions since 1976 and 55% of those currently on death row.<sup>111</sup> The race of the victim and defendant matter as well. Black defendants with white victims are almost 15 times more likely to receive a death sentence than white defendants with Black victims.<sup>112</sup> It is important that our popular culture texts reflect this injustice.

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<sup>110</sup> Robbins, T. (Director). (1995). *Dead Man Walking* (Film). PolyGram Entertainment & Working Title Films.

<sup>111</sup> ACLU. (2022). Race and the Death Penalty. *American Civil Liberties Union*.

<sup>112</sup> Ibid.

The inmates on death row from the 1960-1975 era were all white. Perry was Hispanic on his mother's side. There was one Black inmate in *Convicts 4*, but he was a nominal character and was not on death row. The 1976-1999 era showed two Black men on death row: John Coffey (*The Green Mile*) and Frank Beechum (*True Crime*). These characters were important to the plot, but the movie was not focused on them and instead focused on the white warden in *The Green Mile* and white journalist in *True Crime*. In the 2000-2021 era, three of the films focused on Black characters on death row (*Clemency*, *Monster's Ball* and *Just Mercy*). *Trial by Fire*, although it was about a white defendant, still showed the racism of capital punishment by including interactions with other death row inmates who were Black and *The Life of David Gale* also discussed the racial disparity of death row inmates. Representing the racism of the death penalty is critical to bringing the problem to the attention of the public. Furthermore, in the most recent era, many of the Black inmates have not been token characters. Instead their stories and their families' stories have been the basis of the plot. These films have shown the disruption to Black communities that the death penalty causes and the peripheral casualties that extend beyond the inmate themselves.

### **Death Penalty Films: Everyone Deserves Mercy**

The final meaningful trend from the death penalty genre that I observed from watching these 34 films is the message that everyone deserves mercy. This trend did not change over the years. While I think it is now more socially acceptable to portray murderers in a redeeming light, this presentation has been apparent since the 1960s through the building of empathy for the condemned. Of the 17 death penalty films I watched, I only found one to be lacking in empathy for the condemned (*A Covenant with Death* (1967)). The decision on the part of these films to show people who are on death row in a positive, redeemable and merciful light is a steady

hallmark of the death penalty genre that has only grown over time, willfully compelling more and more tears on the part of its audience members.

Each era presented characters who were guilty yet nevertheless worthy of mercy. Although their crimes and characters were not sugar-coated, the films nevertheless looked beyond their worst acts to the inner traumas that held these individuals captive to becoming perpetrators of the very violence to which they were victims. As one example, *Monster* shows the murders Aileen commits, but it also shows the difficult position she was in and how circumstances beyond her control had cornered her into the miserable life she was living. Compelling empathy for a murderer is no easy task, but this has been a steadfast and growing trend of death penalty films as they re-humanize the elements of society we've preferred to discard as too broken to be saved.

### **Key Takeaway: The Criminal Justice System Needs Change**

As reflections of the anxieties of society, the films in both of these genres have presented one salient message: the criminal justice system needs to change. For vigilante movies, this means more success in both catching and convicting the right people, even if this means foregoing due process. For death penalty movies, this means being more careful with trials so that innocent people don't end up dying on death row. And it means showing more mercy for the guilty. In reconciling these opposing viewpoints, the point of compromise starts to take shape. Both sides want guilty people punished and innocent people protected. But punishment can take different forms. As shown by the recent increase of abolitionist states, Americans are beginning to abandon the archaic notion that an eye must be paid for with an eye.

The trends in this thesis seem to suggest that the death penalty is slowly being phased out in American society. Over half of the states have abolished or imposed moratoriums on the death

penalty, public approval of the death penalty is decreasing and executions per year are dwindling as well. With a death penalty system so wrought with discrimination and politics of countersubversion, it would seem that the death penalty should be abolished in the United States. This thesis has underscored trends within two genres of film over the past sixty year that suggest significant cultural shifts from the sentiments that once attracted Americans to the death penalty. It is my hope that the findings of this thesis hint toward the future, or lack thereof, of the death penalty in the United States. Its stay of execution has been going on long enough.

## Appendix

The films in this appendix are ordered chronologically. The frames within each film are also ordered chronologically by when they were presented in the film. This appendix contains the justifications for how I scored each film by cataloging the specific moments in each film that presented my ten frames.

### *I Want to Live!* (1958):

Empathy for the condemned: Barbara's husband is addicted to gambling and abusive to Bobby and Barbara

Miscarriages of justice: Barbara asks for a lawyer but does not receive one. She is grilled all night by the police

Miscarriages of justice: "Graham's the one who'll sell papers" - news reporter decides to play up her crime record and make things up

Empathy for the condemned: Barbara talking with Peg her friend who believes she is innocent

Empathy for the condemned: Barbara can only give the lawyer \$500 for taking her case. She can't get the public defender.

Miscarriages of justice: lawyer tells Barbara she needs an alibi so she finds a man who says he will provide an alibi, but he is actually an undercover cop and gets a confession from her. Her lawyer tries to withdraw as counsel

Miscarriages of justice: Rita (another prisoner) is released for aiding in getting Barbara to make a confession

Empathy for the condemned: Barbara's history of perjury makes her less believable in court

Empathy for the condemned: Barbara starts crying because she'll be dead and unable to raise Bobby, her son

Empathy for the condemned: talks about her son forgetting her

Discrimination: vice crime, perjury, prostitution; bias against prior convict

Wrongful execution: Barbara claims innocence the entire movie and there is significant reason to believe she was

### *Convicts 4* (1962):

Cruel and unusual nature of death row: corrections officers describe Willie's death (Willie was another death row inmate), his skin burning and gasping for air

Empathy for the condemned: the condemned, John Resko, talks about his family coming to visit and expresses fear of the pain of the electric chair

Empathy for the condemned: Feeling sad that he killed someone; was trying to steal a teddy bear for Cathy (his daughter). "Why do they have to kill you? That brings the dead man back?"

Empathy for the condemned: John Resko says, "It can't be me this is happening to"

Empathy for the condemned: the audience is shown the scene of the murder and how both parties escalated the situation

Community safety/ incapacitation/ deterrence: “The state feels it can’t take the chance of you causing future harm to others.”

Community safety/ incapacitation/ deterrence: the warden talks about being knifed and clubbed by prisoners. “The state does not pay me to pamper clowns.”

Cruel and unusual nature of death row: Not even allowed books

Empathy for the condemned: John’s cellmate immediately tries to kill him

Empathy for the condemned: his bed has bed bugs in it

Empathy for the condemned: Connie (John’s wife) divorces John because he will be in prison for the rest of his life

Cruel and unusual nature of death row: On regular prison block, but a prisoner commits suicide by jumping

Empathy for the condemned: “I’m no lousy lion. I want wall-to-wall freedom”

Empathy for the condemned: Resko says, “If I was outside, I could make amends.”

Cruel and unusual nature of death row: four months isolation for trying to escape

#### *Batman (1966):*

Community safety/ incapacitation/ deterrence: Batman and Robin go to the rescue

Dehumanizing the perpetrator: Joker acts insane; nothing he does makes sense; laughs at all times for no reason

Dehumanizing the perpetrator: “Nothing is sacred to those devils”

Community safety/ incapacitation/ deterrence: Batman tries to save Ms. Kitka from the villains

Community safety/ incapacitation/ deterrence: Batman carries bomb away from civilians

Dehumanizing the perpetrator: the Riddler says, “I must, I must. Outwitting Batman is my sole delight, my joy, my heaven on Earth, my very paradise”

Victim-motivated justice: Dehydrate the Security Council and “kidnap Ms. Kitka” and Batman and Robin attempt to defeat the criminals in order to save these people

Dehumanizing the perpetrator: The criminals dance and cheer every time they think they’ve killed Batman and Robin and laugh when they send out a missile

Leniency/ ineptitude: If Batman and Robin can’t separate the dust back into its constituent parts, then no one can. Even the police and the president salute Batman and say he and Robin are their only hope

#### *In Cold Blood (1967):*

Victim-motivated justice: The film sets up a lot of sympathy for the family that is murdered by showing them going about their normal routine with lots of care for one another and their community

Empathy for the condemned: Perry has PTSD from his motorcycle accident

Discrimination: Dick talks about how the criminal justice system is biased to help rich people

Empathy for the condemned: Perry reveals that he was an orphan who was abused by nuns

Community safety/ incapacitation/ deterrence: “Natural-born killer.” “Unstable, explosive.” “Hair-trigger temper.” Dick says of Perry. Perry says he doesn’t know why he killed the person he claims to have killed (this turns out later to be false. The Clutters were the first and only people Perry killed)

Community safety/ incapacitation/ deterrence: Throughout the film there are lots of mentions of “if this happened to the Clutter family, who is safe anymore?”

Empathy for the condemned: Dad talks about Perry’s childhood - unstable family and drunk mom who died from alcoholism/suicide

Community safety/ incapacitation/ deterrence: when talking about the psychology of senseless murders, they say the perpetrators “felt the urge to kill before they committed murder”

Empathy for the condemned: more PTSD, Perry watched his mother have sex with strangers when he was a child, then watched his dad beat her and pour alcohol over her

Empathy for the condemned: Dick’s father talking about Dick loving his parents and his kids and being a good son

Empathy for the condemned: “It didn’t seem real” Perry talks about not believing they would actually go through with killing the Clutters

Victim-motivated justice: showing the murder of the Clutters and how sad it is

Empathy for the condemned: Perry only got to third grade

Empathy for the condemned: His father tried to shoot him and he has a flashback to that when he kills Mr. Clutter

Community safety/ incapacitation/ deterrence: claim that without the death penalty, Dick and Perry would be up for parole in 7 years which is unacceptable

Retribution: Attorney says that Dick and Perry didn’t have mercy for the Clutters so you shouldn’t have mercy for Perry and Dick

Cruel and unusual nature of death row: on death row there are no games, no radio, no tv, no exercise, etc. “They could eat, sleep, write, pray, read, and dream. Mostly they could wait to die.”

Retribution: Dick says he’s for hanging; it’s just revenge. He just doesn’t want to be the one hanged

Cruel and unusual nature of death row: it takes 20 minutes for Andy’s heart to stop beating when he is hanged (Andy is another death row inmate). Dick and Perry waited 5 years to be hanged

Cruel and unusual nature of death row: Perry needs to use the bathroom because he doesn’t want to urinate on himself while being hanged and the corrections officers tell him no, but the chaplain tells them to let him

Empathy for the condemned: Perry talks about he and his father creating a home for tourists in Alaska but getting no business and his father attempting to shoot him but the gun wasn’t loaded. Perry is kicked out of the house.

Talk about how despite all the ruckus this has caused, the death penalty for them won’t do anything to stop future murders

*A Covenant with Death* (1967):

Miscarriages of justice: All the evidence is circumstantial, and the cops consider only Brian Talbot for the murder from the beginning

Racism against Catholics, Mexicans and Native Americans (says “almost as smart as a white man”)

Dehumanizing the perpetrator: “Talbot is an animal, a depraved animal.”

Community safety/ incapacitation/ deterrence: “There’s nothing else to look forward to this summer... It’s a community blood-letting.”

Retribution: “Everybody loves to kill, but no one will admit it. Talbot kills his wife and then we kill Talbot”

Retribution: “An eye for an eye, a tooth for a tooth”

Wrongful execution: Condemn Brian Talbot to death for a murder he didn’t commit. Mr. Donnelley did.

Miscarriages of justice: Talks about older judges not caring anymore about morality

*The Wild Bunch* (1969):

Dehumanizing the perpetrator/ lives as insignificant: one of the criminals makes the scared victims sing while holding a gun to them

Dehumanizing the perpetrator: children are cowering, horses are falling, bodies laying in the street because of the criminals

Dehumanizing the perpetrator: Dying words of a perpetrator are “well how’d you like to kiss my sister’s black cat’s ass”

Retribution: Kills a woman because she leaves him for another man

Leniency/ ineptitude: “We share very few sentiments with our government”

Retribution: one gang shoots at members of the other gang, so they shoot back

*Dirty Harry* (1971):

Community safety/ incapacitation/ deterrence: Mayor tells Harry off for shooting someone, but Harry says he had “intent to rape”

Community safety/ incapacitation/ deterrence: Harry shoots at active bank robbers

Dehumanizing the perpetrator: Scorpio has his eyes on his target who is completely random. He smiles in a sadistic manner

Victim-motivated justice: Charlie Russell killed by Scorpio - only ten years old - scene with mother crying

Dehumanizing the perpetrator: Scorpio has no remorse for his crimes. He extracts a tooth from one of his victim’s mouth and likely sexually assaulted her

Dehumanizing the perpetrator: Harry almost gets mugged randomly in a tunnel which presents muggers as being ubiquitous

Dehumanizing the perpetrator: “I’ve changed my mind. I’m going to let her die. I just wanted you to know that before I kill you” said by Scorpio

Leniency/ Ineptitude: Don't obtain warrant and enter Scorpio's property anyway

Dehumanizing the perpetrator: Scorpio is a psychopath and utterly insane

Leniency/ineptitude: Harry doesn't obtain a warrant; tortures Scorpio by pressing on his injured leg; doesn't tell him his Miranda Rights: gun is inadmissible as evidence

Victim-motivated justice: Harry asks, "What about Scorpio's victims' rights?"

Leniency/ ineptitude: Mayor cares more about his word of honor to Scorpio than stopping Scorpio

Community safety/ incapacitation/ deterrence + retribution: Harry decides to kill Scorpio for his crimes and to keep the community safe

*Magnum Force (1973):*

Leniency/ineptitude: Mr. Ricca gets off because of inadmissible evidence. Likely guilty for the crime

Leniency/ineptitude: one of the rogue cops says, "Fuck the courts, that's what I think. They already wasted too much g\*\*damn time worrying about the rights of killers"

Leniency/ ineptitude: Ricca released on a technicality after being tried for the murder of a family  
Community safety/ incapacitation/ deterrence: rogue cop shoots Mr. Ricca and affiliates because of his alleged crimes

Dehumanizing the perpetrator: people hijack the plane and there is no backstory or explanation of why. They are just evil people.

Leniency/ ineptitude: one of the rogue cops says, "These days a cop kills a hoodlum on the streets and he'll get crucified by the DA. A hood can kill a cop, but a cop can't kill a hood"

Dehumanizing the perpetrator: Racist thugs start attacking the store personnel for no reason

Dehumanizing the perpetrator: crime is abounding in this city. A man kills his girlfriend in the car because she was keeping a cut of the profit for herself (Black couple, and he is dressed like a hippie)

Community safety/ incapacitation/ deterrence: vigilante cop kills another criminal

Community safety/ incapacitation/ deterrence: the victims are criminals who committed "hijacking and gambling, trucking, narcotics and prostitution and pimping"

Leniency/ ineptitude: Callahan tells his boss that he thinks the vigilantes are cops, but his boss will not listen

Dehumanizing the perpetrator: "No harm in shooting, as long as the right people get shot."

Community safety/ incapacitation/ deterrence: Palancio and his gang open fire and the cops shoot everyone

Leniency/ ineptitude: cops are angry with Callahan for causing problems even though he is trying to uphold the law

Miscarriages of justice + leniency/ ineptitude: one of the rogue cops says to Callahan, "Do you have any idea how hard it is to prosecute a cop?" He says this to dissuade Callahan from taking legal action against him. The rogue cop then gives the justification that there is no other way than violence to catch these criminals because the court system doesn't work

Retribution: “Evil for evil, Harry. Retribution.”

*The Execution of Private Slovik* (1974):

Empathy for the condemned: Eddie wishes he could run away so they would shoot him instead of being executed

Empathy for the condemned: his comrades in the military talk about Eddie being a good-hearted kid and that he would be too scared to fight in battle

Empathy for the condemned: sympathy for Eddie as he talks about his troubled past falling in with the wrong crowds

Empathy for the condemned: reading letters from Eddie to his wife which are sad because he is being executed

Empathy for the condemned: his sentence is read and is told he is sentenced to death and he looks so pitiful

Discrimination: the jury does not recommend clemency because of his past criminal record

Empathy for the condemned: Eddie discusses why he couldn't go back to the rifle infantry and the possibility of dying at any moment. “I guess that's what I really couldn't take... the not knowing”

Discrimination: “They're making an example out of me because I'm an ex-con... They're shooting me for the bread and gum I used to steal when I was twelve years old.”

Empathy for the condemned: Starts to cry right before execution

Cruel and unusual nature of death row: only soldier to be condemned to death for deserting since Civil War - very arbitrary

*Death Wish* (1974):

Community safety/ incapacitation/ deterrence: 15 murders the first week. 21 the next.

Dehumanizing the perpetrator: 3 hooligans cause mayhem in the store for no reason. These turn out to be the killers of the Kersey women

Dehumanizing the perpetrator: the perpetrators sexually assault the daughter and kill the mother for no reason. Very brutal scene

Victim-motivated justice: extreme sympathy for Mr. Kersey and his daughter who is in a catatonic state due to the trauma of the ordeal

Leniency/ineptitude: cops have very low chance of catching the men who did it

Community safety/ incapacitation/ deterrence: Paul Kersey only has to look out his window to see crime (mugging)

Victim-motivated justice: Mr. Kersey can't even see his own daughter because she is so traumatized

Community safety/ incapacitation/ deterrence: Paul Kersey sees a demonstration of the wild West and how innocent people are always getting the short end of the stick

Community safety/ incapacitation/ deterrence: while he is in the West, Paul's business partner says, "A gun is just a tool, like a hammer or an ax... keep a burglar out a bank" "Unlike you, we can walk the streets safely"

Victim-motivated justice: his daughter is in catatonia and can't face the world

Community safety/ incapacitation/ deterrence: a mugger comes up to Mr. Kersey as he is walking and tries to shoot him

Dehumanizing the perpetrator: thugs who try to kill Paul have no personality

Dehumanizing the perpetrator + Community safety/ incapacitation/ deterrence: Paul kills more people, so many people are randomly attacking him

Leniency/ineptitude: "If the police don't defend us, maybe we ought to do it ourselves"

Retribution: "Motive: revenge." the police being looking for a man who had muggers hurt a member of his family because they figure that is who is doing these vigilante killings

Dehumanizing the perpetrator: more criminals on the train, intimidate everyone away except for Mr. Kersey

Discrimination: a partygoer remarks that the vigilante kills more Black muggers than white muggers so he must be racist. Another partygoer asserts that there are more Black muggers than white muggers. "What do you want? Racial equality among muggers?"

Community safety/ incapacitation/ deterrence: mugging is almost halved since the vigilante began killing thugs

Dehumanizing the perpetrator: more muggers who appear out of nowhere. All of the muggers are one-dimensional characters who appear to be bloodthirsty criminals

Leniency/ineptitude: cop withholds information and keeps it secret that Kersey is the vigilante

*Carrie (1976):*

Retribution: when a little boy on a bicycle rides by and says "Creepy Carrie," she knocks him off his bicycle

Leniency/ ineptitude: the teacher begins to mock Carrie for telling Tommy his poem is "beautiful"

Dehumanizing the perpetrator: Kris gets excited when her boyfriend is killing a pig and seems to hate Carrie White for no reason

Dehumanizing the perpetrator: Carrie's mom is insane. She bullies Carrie and relies on religion to make everything seem like a sin

Retribution: Carrie kills everyone who laughed at her

Retribution: Carrie kills Kris and Rufus for bullying her

*Taxi Driver (1976):*

Dehumanizing the perpetrator: "I wish the rain will wash all the scum off the streets" - referring to people like prostitutes, pimps, bookies, etc.

Dehumanizing the perpetrator: Travis says he'd like to have all the scum of the city flushed down the toilet"

Dehumanizing the perpetrator: some young Black hoodlums throw things at Travis' taxi for no reason

Racism: uses the 'n' word

Dehumanizing the perpetrators: Travis monologues, "Listen you fuckers, you screwers. Here is a man who would not take it anymore. Here is a man who stood up against the scum"

Dehumanizing the perpetrator: kills a Black man who tries to steal from a store. Fifth person who tried to steal this year

Dehumanizing the perpetrator: pimp says the prostitute is only 12 years old. Then talks about everything he can do to her sexually

Dehumanizing the perpetrator: "He's the suckiest scum of the earth"

Dehumanizing the perpetrator: "No longer will we the people suffer for the few."

Victim-motivated justice: Bickle kills Sport because he pimps out Iris and kills the other pimp too

*The Executioner's Song* (1982):

Community safety: when his date asks Gary if he's going to hit her

Empathy for the condemned: dad left Gary, and Gary talks about guardian angel

Discrimination: low class, Brenda calls Nicole "welfare witch"

Community safety/ incapacitation/ deterrence: Gary engages in fist fight

Community safety/ incapacitation/ deterrence: Gary walks into a store and steals beer

Empathy for the condemned: Gary talks about feeling like he's dead

Community safety/ incapacitation/ deterrence: Gary almost hits someone with a crowbar

Community safety/ incapacitation/ deterrence: Gary hits Nicole and then holds a knife to her

Community safety/ incapacitation/ deterrence: Gary hits Nicole and her kids after he drives unsafely with guns

Community safety/ incapacitation/ deterrence: Gary kills gas attendant and the motel manager

Dehumanization of the perpetrator: senselessly kills the gas attendant and the motel manager

Empathy for the condemned: Nicole reads note from Gary where he is depressed

Empathy for the condemned: when Gary is in prison, he talks about why he's become the man he is today. He says, "I been here so long, there ain't nothing left to me" then talks about being raped and then holding down new kids to avoid being the victim anymore when he was in prison.

Miscarriages of justice: lawyers talk about how since the Utah death penalty statute has not been declared constitutional, it may be a wrongful execution

*A Nightmare on Elm Street* (1984):

Leniency/ ineptitude: police arrest the wrong guy

Leniency/ ineptitude: "The lawyers got fat and the judge got famous but somebody forgot to sign the search warrant in the right place, and Krueger was free just like that."

Community safety/ incapacitation/ deterrence: Parents killed Fred Krueger since the law couldn't hold him

Dehumanizing the perpetrator: Freddy Krueger is a specter in dreams who was once a man who killed 20 children.

Leniency/ ineptitude: the police don't help when Nancy traps Freddy and don't believe her

*The Thin Blue Line* (1988):

Miscarriages of justice: cops threaten Adams with a pistol to confess

Miscarriages of justice: his statement is used as a "confession"

Miscarriages of justice: decide to try the 28-year old man (Randall Adams) instead of the 16 year old Dave who actually had a criminal record because they can try Adams for capital punishment

Miscarriages of justice: officer changes statement significantly from original testimony to trial

Miscarriages of justice: "For enough money, he would see anything they wanted him to see" in regards to the person who testified that he saw Adams shoot the cop

Miscarriages of justice: psychiatrists find what they already expect

Miscarriages of justice: Dr. Death is the doctor; always says the suspect will commit more violent crime in the future; only talked to him for 15 minutes

Wrongful execution: Randall Adams convicted to death sentence despite the overwhelming evidence that David was the one who committed the crime

Cruel and unusual nature of death row + empathy for the condemned: corrections officers tell Randall 15-20 times a day all the gory details of an execution and keep telling him how they can't wait to kill him

Miscarriages of justice: well-known saying in Texas. "Any prosecutor can convict a guilty man. It takes a great prosecutor to convict an innocent man"

Empathy for the condemned: David describes his four year old brother drowning when he was 3; hard for him to get any acceptance from his father

*Batman* (1989):

Community safety/ incapacitation/ deterrence: some men are in an alley after robbing people.

Batman scares them and tells them to tell all their friends about him

Leniency/ ineptitude: Gorman, the cop, says, "If the bat were real, we would find him, we would arrest him"

Community safety/ incapacitation/ deterrence: Batman intercepts Jack Napier who is conducting illegal business

Retribution: the Joker kills his boss for betraying him

Dehumanizing the perpetrator: the Joker is no longer human in the conventional sense and kills without remorse

Dehumanizing the perpetrator: the Joker kills many random people for no reason

Dehumanizing the perpetrator: the Joker typically says, "You ever dance with the devil in the pale moonlight?" before killing people

Victim-motivated justice: Bruce Wayne's parents are killed by Jack Napier; Bruce becomes Batman

Dehumanizing the perpetrator: Joker wants to kill all the people at the parade for no reason  
 Leniency/ ineptitude: While the Joker is attempting to kill everyone, the police are nowhere to be seen

Leniency/ ineptitude: Cops finally show up, but can't even get into the building

Victim-motivated justice + retribution: Bruce tells Joker he killed his parents. "I made you, you made me first"

Community safety/ incapacitation/ deterrence: "Public safety is no longer a laughing matter."

*The Crow* (1994):

Retribution: narrator says, "When something so wrong happens, the crow can bring that soul back to make the wrong things right"

Dehumanizing the perpetrator: hooligans causing mayhem for no reason

Dehumanizing the perpetrator + victim-motivated justice: show murder and rape scene of Eric and his girlfriend. People broke in and killed them for no reason

Dehumanizing the perpetrator: one of the perps burns his tongue with a cigarette for no reason

Retribution: Eric kills Tin-Tin for killing him

Victim-motivated justice: "Her name was Shelly. You killed her. You raped her."

Retribution: Eric stabs Gideon and retrieves his engagement ring and burns down his store

Leniency/ ineptitude: cops haven't locked up any of Eric and Shelly's murderers

Dehumanizing the perpetrator: Top Dollar and Myra cut the eye out of a naked woman they likely murdered and burn the eye in a cup - cultish. Then do cocaine

Retribution: Eric shoots and kills Funboy with a morphine overdose

Leniency/ ineptitude: the cop tried really hard to get information on who had killed Eric and Shelly but no one would talk after what happened to Eric

Dehumanizing the perpetrator: "I ain't making all this shit up. I ain't twisted like you two fucks".

Top Dollar kills Gideon even though he gave all the information they wanted

Retribution + Victim-motivated justice: Kills T-Bird for what he did by duct taping him to the car and crashing it after T-Bird talks about him killing Shelly because she had filed complaints about the tenant relocation program

Leniency/ ineptitude: going to suspend Albrecht, the only cop that has any clue what is going on

Retribution + victim-motivated justice: Eric says, "Guess it's not a good day to be a bad guy, huh Skank?" Sees Shelly in his mind. Begins killing the assembled crime lords because they won't give him Skank and then kills Skank

Retribution + victim-motivated justice: gives Top Dollar Shelly's 30 hours of pain and knocks him off the steeple

*Dead Man Walking* (1995):

Cruel and unusual nature of death row: Matthew Poncelet talks about being in his 6 by 8 foot cell 23 hours a day, no exercise, feels like sow being fattened up for Christmas dinner, family never visits him

Dehumanizing the perpetrator: the chaplain tells Prejean “They are all con men and they will take advantage of you in every way they can”

Discrimination: “Ain’t nobody with money on death row”

Dehumanizing the perpetrator: hear on television that Poncelet and his accomplice spread a wide swath of terror; paint them as irredeemable

Miscarriages of justice: Metella gets life, Poncelet death because Metella had a better lawyer

Community safety/ incapacitation/ deterrence: “Get tough” on crime speech on television

Empathy for the condemned: Poncelet says that they are “going to be thinking of you as a criminal, not as a person”

Cruel and unusual nature of death row: Matthew’s mother is mocked and derided in public as well as Matthew’s brothers because of Matthew

Victim-motivated justice: “What about the parents of these victims”

Empathy for the condemned: his dad died when Matthew was 14.

Cruel and unusual nature of death row: his mother cries in court testifying for Matthew

Miscarriages of justice: Matthew’s lawyer was a “tax lawyer who never tried a capital case before... Raised one objection the entire trial”

Cruel and unusual nature of death row: “Face goes to sleep while his insides are going through Armageddon”

Victim-motivated justice: Talking about Hope and Walter and their families (the victims)

Victim-motivated justice + Dehumanizing the perpetrator: “This is an evil man... The Delacroix name dies with me” said by Mr. Delacroix because his son is dead, and he has no other heirs

Victim-motivated justice: Mr. Delacroix talking about his son and his wife crying about his son

Discrimination: Matthew says, “they already executed one Black... two Blacks... Now it’s a white. That’s me”

Community safety/ incapacitation/ deterrence: said by one of the supporters of the death penalty “It’s the only way we can be sure that they won’t kill again”

Victim-motivated justice: parents of Hope are crying and so sad that she died. Raped, nude, and “vagina all torn up”

Retribution: Hope’s father wanted to kill Matthew himself

Dehumanizing the perpetrator: Hope’s father says, “This is not a person. This is an animal. No, I take that back. Matthew Poncelet is God’s mistake”

Victim-motivated justice: showing murder of the two kids and their baby pictures

Empathy for the condemned: Matthew is angry at Sister Helen for her leaving him alone

Empathy for the condemned: Matthew’s mom says, “If I put my arms around my boy, I would have never let go”

Empathy for the condemned: Matthew’s last phone call with mother; both crying

Empathy for the condemned: Matthew finally takes ownership for his crimes. “I just hope my death can give their families some relief.”

Cruel and unusual nature of death row: humiliated wearing a diaper and slippers to the execution room

“I just want to say killing is wrong, no matter who does it; whether it’s me or y’all or your government.” - Matthew Poncelet

Victim-motivated justice: Showing scene of Hope and Walter’s death while Matthew dies

*Last Dance* (1996):

Cruel and unusual nature of death row: Cindy has been on death row for 12 years

Miscarriages of justice: “Not in a state where 76% of the citizens support capital punishment.”

No one with a death sentence gets clemency

Empathy for the condemned: Cindy says, “I do not want to die. I do not, but if I do, I want it to be on my terms”

Miscarriages of justice: defense only had 9 days to prepare for Cindy’s trial. And the DA was gunning for the death penalty

Empathy for the condemned: Cindy talks about her mother’s death when she was 16

Miscarriages of justice: Cindy was on drugs when she murdered people which was not presented as a mitigating factor in her trial

Discrimination: Black men and poor woman are the people on death row

Cruel and unusual nature of death row: mention a previous death penalty convict whose execution didn’t go right and he burned to death

Cruel and unusual nature of death row: “Putting her to death is only going to keep us in this darkness”

Victim-motivated justice: father of the victim talks about his son and how she has to pay for what she did to them

Miscarriages of justice: ineffective counsel

Miscarriages of justice: “We’re the system.” in response to saying that the system is flawed

Miscarriages of justice: D.A. instructed the witness to lie about being on hard drugs

Empathy for the condemned: Cindy says goodbye to her brother, and it is very sad

Cruel and unusual nature of death row: issue stay of execution 3 minutes before execution; intense psychological trauma, only to lift stay of execution and kill her

*The Green Mile* (1999):

Discrimination: see a majority of Black prisoners

Empathy for the condemned: John Coffey is scared of the dark and very polite and seems to have severe shyness; also empathy for Delacroix who Percy breaks the fingers of for no reason

Retribution: “He deserves to fry for what he done”

Empathy for the condemned: Bitterbuck talking about his best times in life

Discrimination: The majority of death row prisoners are mentally disabled or minorities (Bitterbuck Cherokee, Del mentally disabled, Coffey Black)

Retribution: “He’s paid what he owed, he’s square with the house again”

Leniency/ Ineptitude: talk about how William was into all sorts of trouble before his most recent crime where he killed three women, one a pregnant lady

Miscarriages of justice: Coffey's defense lawyer is racist and compares him to a dog that needs to be put down and believes he is guilty wholeheartedly

Empathy for the condemned: "This is for Del and Mr. Jingles." John shares his cornbread with them

Dehumanizing the perpetrator: William (Wild Bill) has absolutely no redeeming qualities and is entirely insane

Empathy for the condemned: Coffey saves Mr. Jingles

Empathy for the condemned: Del is sad he's about to be executed and wishes he had met everyone somewhere else. Del wishes he could take back what he did

Cruel and unusual nature of death row: Percy doesn't put the water on the sponge so the electrical current runs through Del's whole body instead of straight to his head and he burns. It's a terrible scene and everyone is trying to leave the execution room. Percy also tells Del there is no such thing as Mouseville and calls him f\*\*\*\*\*

Dehumanizing the perpetrator: Wharton (one of the wardens) is singing about Del's execution; psychotic character

Cruel and unusual nature of death row: John Coffey is disturbed and hurt by the killing of Del

Discrimination: Wharton says "n\*\*\*\*\* should have their own electric chair"

Empathy for the condemned: Coffey talks about all the pain in the world and how painful it is for him

Empathy for the condemned: Coffey says he dreamed about Mr. Jingles and the two girls who died all having fun and having a good time

Victim-motivated justice: see the father and mother of the two girls Wild Bill murdered who are both crying and upset

Cruel and unusual nature of death row: John Coffey is scared and singing to himself as he is about to be executed

Wrongful execution: Coffey is executed despite being innocent

Cruel and unusual nature of death row: Edgecomb and Brutal both transfer out of death row because of the trauma of the experience

*The Boondock Saints* (1999):

Leniency/ ineptitude: Connor and Murphy talk about crime lords, child molesters, rapists and murderers getting out of prison

Community safety/ incapacitation/ deterrence: "Funny man" Rocco talks about being scared he's going to be killed every day

Retribution: Rocco decides to join Connor and Murphy as a vigilante because he's tired of how he's been treated by the mob

Dehumanizing the perpetrator: in explaining who their targets are, Connor and Murphy say, "Evil men, dead men"

Retribution: Rocco kills one of the mob members with vengeance for brutally killing a family and because he was a bad person

Leniency/ ineptitude: Although one of the cops is presented as genius, he is also thwarted by Murphy and Connor and often acts crazy

Leniency/ ineptitude: “I put evil men behind bars, but the law has miles of red tape and loopholes for these cocksuckers to slip through”

Community safety/ incapacitation/ deterrence: The cop takes part in the vigilante justice. “I am a man who’s supposed to uphold the law.” “The laws of God are higher than the laws of man.”

*True Crime* (1999):

Cruel and unusual nature of death row: the condemned, Frank Beechum is as “healthy as a horse,” which means they will be executing a perfectly healthy man

Victim-motivated justice: when the journalist seems against capital punishment, the victim is brought up as the reason why capital punishment is necessary.

Empathy for the condemned: Frank Beechum speaks about his remains and possessions and talks about the church raising money for his funeral

Victim-motivated justice: “Arnie, what do you think about Beechum?” “Sometimes I think about the girl he shot dead over \$96. Mostly I think about doing my job” said by one of the corrections officers in response to Steve Everett’s question

Discrimination: Beechum is a Black man

Miscarriages of justice + discrimination: two white witnesses against Black defendant

Dehumanization of the perpetrator: “It was like looking into the eyes of a goat. They were that cold” is how the public describes Frank Beechum

Victim-motivated justice: father of the victim says nothing will bring justice except for killing Beechum

Empathy for the condemned + Cruel and unusual nature of death row: family comes and visits Beechum and wife is crying and their daughter is too young to understand what is going on

Miscarriages of justice: mention Beechum’s first lawyer probably didn’t defend him

Empathy for the condemned + cruel and unusual nature of death row: Beechum tells his daughter he will be there in spirit because Gail (his daughter) is upset and says, “Why can’t you just come home?”

Empathy for the condemned + cruel and unusual nature of death row: “I feel isolated. I feel fear. Fear of pain, fear of prison, fear of being separated from my loved ones” said by Beechum

Empathy for the condemned: “Where were you?” Bonnie (Beechum’s wife) asks Everett because he’s the only one that believes Beechum didn’t kill the girl and his execution is very close now

Miscarriages of justice: only the DA has the full list of witnesses; defense doesn’t have the full list from the original trial, meaning that the defense couldn’t interview all the witnesses and build a stronger case for Beechum

Cruel and unusual nature of death row: saying goodbye to Bonnie “I really hate to see you going through this” “I’m scared” says Bonnie

Discrimination: talking about that the white witnesses to the murder weren’t questioned about potentially being the killers

Retribution: hear on television from one of the spectators “An eye for an eye”

Wrongful execution: governor calls after they have already put the IV into him - resuscitated back to life

*Memento* (2000):

Retribution: Leonard’s reason for living is to find and kill whoever murdered his wife

Victim-motivated justice: “My wife deserves vengeance. It doesn’t matter if I know about it.”

Leniency/ ineptitude: the police are looking for the wrong person

Leniency/ ineptitude: Teddy tells him there is a policeman that is setting him up

Retribution: “What do you want from me?” says the drug dealer. “I want my fucking life back” says Leonard as he kills him

Retribution: “I thought you deserved revenge,” says Teddy the cop to Leonard in response to why Teddy is helping him find the murderer

*Monster’s Ball* (2001):

Discrimination: the father of the prison guard yells, “What the hell these n\*\*\*\*\* doing out there...” and more racist speech and then tells two young Black boys to get off his property and threatens them with his gun

Cruel and unusual nature of death row + empathy for the condemned: Lawrence (the death row inmate) apologizes for letting down his wife and his son and gives him all his belongings; Lawrence talks to his son and his wife who have been coming for 11 years; obvious toll on wife and son; Leticia (the wife) is losing her house and having car problems. He is supportive of his son’s art. His son draws because it makes him more connected to his father.

Empathy for the condemned: Lawrence asks the corrections officer to call his son and tell him that he tried to make his last call to him; corrections officer refuses

Empathy for the condemned + cruel and unusual nature of death row: condemned (Lawrence) draws Sonny who appreciates the drawing. Lawrence then seems to have a panic attack. In this scene, one sees Lawrence for his kindness and in a very human way.

Cruel and unusual nature of death row: Leticia yells at Tyrell for eating candy and then is kind again and says “Let’s wait for your daddy to call.” She probably overreacts because of emotional stress since it is Lawrence’s execution day

Cruel and unusual nature of death row: one of the guards throws up on the way to executing Lawrence, seemingly out of revulsion at the act of killing him

Cruel and unusual nature of death row: contrast execution scene (lengthy) with Leticia brushing her teeth, showing how alienating having a loved one on death row is. She can’t even be with him for his execution.

Discrimination: most of the prisoners are Black

Both Sonny and his dad use a prostitute in spite of being corrections officers. This is not one of my frames but shows the hypocrisy and corruption of those in the criminal justice system.

Discrimination: “He’s a black kid. You think they gonna do that” in reference to trying to the cops finding who hit Tyrell with their car and killed him

Discrimination: talking about her son, Tyrell, and discrimination in America for Black men

Cruel and unusual nature of death row: Letiticia says, “I hadn’t felt anything in so long” because of all the time she’s been numb on account of Lawrence (her husband) on death row

Discrimination: “When I was young, I had a thing for n\*\*\*\*\* juice too” said by the correction officer’s father (who also worked in corrections)

*The Life of David Gale* (2003):

Miscarriages of justice: unduly prejudiced against David Gale’s judicial review because he was an advocate for abolition

Discrimination: more than half of the prisoners in the jail are Black or Hispanic

Cruel and unusual nature of death row: “They’re practicing being cruel and unusual,” Gale says of the death penalty

Talking about dehumanizing the perpetrator: “No one who looks through that glass sees a person. They see a crime. I’m not David Gale, I’m a murderer and a rapist”

Miscarriages of justice: lawyers fell asleep during cross examination

Victim-motivated justice: describing murder of woman and how murderer made her swallow the key

Wrongful execution: David Gale is innocent

Miscarriages of justice: Gale could have gotten life on mitigating factors but didn’t

Victim-motivated justice: See the video of the victim dying

Cruel and unusual nature of death row: Constance cries because the person on death row she was trying to save was executed

Empathy for the condemned: David doesn’t fear death; he just wants his son to remember him not as a murderer and rapist

Empathy for the condemned: David Gale shuffles into his final prison cell before his execution

Victim-motivated justice + retribution: See signs saying “eye for an eye” and “what about the victims” “he raped and murdered that poor innocent girl, and as far as I’m concerned, he should die for it,” says one protestor

Discrimination: “Blacks and Latinos are five times more likely to receive death row than whites”

Wrongful execution: David Gale proven innocent and executed because the proof came after his death

*Monster* (2003):

Empathy for the condemned: montage at the beginning explaining how Aileen fell into prostitution at a young age

Empathy for the condemned: Aileen talks about suicide

Empathy for the condemned: scene where one of her Johns rapes her and beats her

Discrimination: Selby's parents say about Aileen: "she's not even gay Selby. She's a street hooker, she's just using you"

Empathy for the condemned: Aileen gets picked up by a cop who sexually assaults her

Empathy for the condemned: Aileen tells Selby she killed a man and starts crying because everyone leaves her

Empathy for the condemned: Aileen says, "I've been hooking since I was 13, man. Who the fuck am I kidding? I'm a hooker"

Empathy for the condemned: Aileen says, "Because after my dad had killed himself, we were out on the streets." And describes how her own siblings threw her in the snow because they were embarrassed she was a sex worker

Empathy for the condemned: Aileen describes being raped repeatedly when she was 8 by her dad's friend

Empathy for the condemned: Aileen says, "Sometimes I feel like everybody thinks I'm just some bad shitty fucking person. And all I'm fucking trying to do is survive, you know"

Discrimination: Aileen is living in poverty as a sex worker and falls into one of the classes of people that are more likely to receive the death penalty

#### *Kill Bill: Volume 1 (2003):*

Victim-motivated justice: see The Bride with lots of cuts on her face

Retribution: The Bride kills Jeanne because she once tried to kill her

Retribution: "When you grow up, if you still feel raw about it, I'll be waiting" says the Bride to Jeanne's daughter

Dehumanizing the perpetrator: A random man comes in and is going to rape The Bride while she is comatose. Clear that this happens often. This man is presented as despicable

Retribution: The Bride kills Buck for raping her

Retribution: O-Ren Ishii kills those who murdered her parents

Dehumanizing the perpetrator: Gogo (one of O-Ren's henchwomen) is mad/insane. Kills a man for admitting he wants to have sex with her

Retribution: If anyone brings up O-Ren's heritage in a negative way, then she kills them

Retribution: The Bride maims O-Ren's lawyer who was a part of her assault

Dehumanizing the perpetrator: Kill all of O-Ren's subordinates who have no other role in the movie except to fight against The Bride and be killed

Dehumanizing the perpetrator: All these goonies of O-Ren's die without any characterization except being on the wrong side

Leniency/ ineptitude: the police never catch any of the four criminals or even Buck. Police do nothing the entire movie in regards to justice for The Bride

#### *Man on Fire (2004):*

Dehumanizing the perpetrator: men just start shooting and trying to kidnap Pita. Throughout the film, Creasy kills people connected to Pita's kidnap without any discussion.

Victim-motivated justice: Pita's mother, Lisa, is crying that Pita has been kidnapped

Leniency/ ineptitude: some of the cops are corrupt and work for the kidnappers "La Hermandad" protects corrupt cops

Retribution + victim-motivated justice: Creasy kills anyone who was involved or profited from Pita's death

Retribution + victim-motivated justice: "Revenge is a meal best-served cold," says Creasy. The film then shows flashbacks of Pita

Leniency/ ineptitude: "He'll deliver more justice in a weekend than ten years of your courts and tribunals"

*The Dark Knight (2008):*

Dehumanizing the perpetrator: the hit men kill each other because they want all the money for themselves

Dehumanizing the perpetrator: the Joker kills the one remaining henchman; told by the manager of the bank that criminals don't have honor these days

Leniency/ ineptitude: the courts can't convict the mob boss because the witness pretends he planned the murders even though he has signed a statement saying that Maroni was the one responsible

Empathy for the condemned: the Joker tells story of childhood and father beating his mother and carving scars into his face

Leniency/ ineptitude: Joker infiltrates the court system

Dehumanizing the perpetrator: Joker kills a Batman look-alike and laughs while doing it.

Dehumanizing the perpetrator: one of the Joker's victims says, "Because he's (Batman) a symbol that we don't have to be afraid of scum like you"

Dehumanizing the perpetrator: The Joker intimidates Rachel and acts crazy

Dehumanizing the perpetrator: "Some men aren't looking for anything logical like money... some men just want to watch the world burn"

Leniency/ ineptitude: police can't keep Batman safe

"Kill you? What would I do without you?... You complete me" When the chips are down, these civilized people will eat each other"

Dehumanizing the perpetrator: "Freaks like you who just enjoy it"

Dehumanizing the perpetrator: the Joker says he uses a knife because guns are too quick and you can't savor all the little emotions

Dehumanizing the perpetrator: the Joker says, "I'm a dog chasing cars. I wouldn't know what to do if I caught it"

Leniency/ ineptitude: SWAT and cops are inept and think the clowns are Joker's henchmen not the hostages and almost kill them

Retribution: "It's not about what I want. It's about what's fair... The world is cruel and the only morality in a world that's cruel is chance." Harvey wants to kill all those that were responsible for Rachel's death

Community safety/ incapacitation/ deterrence: throughout the film, Batman is concerned with protecting the community from the Joker

*Law Abiding Citizen (2009):*

Victim-motivated justice: the film show a perfect, happy family with a sweet daughter

Dehumanizing the perpetrator: Criminals show up out of nowhere and kill Clyde's daughter as well as rape his wife

Leniency/ ineptitude: Lawyer is willing to take a plea deal because the DNA is inadmissible and the lawyer doesn't want to ruin his 96% conviction rate + plus says Clyde's testimony won't be reliable. "This is just how the justice system works"

Leniency/ ineptitude + miscarriages of justice: Darby (the worse of the two criminals) gets third degree murder, while Ames is tried for the death penalty

Empathy for the condemned: Ames in the lethal injection chair dying for the crime that Darby committed

Cruel and unusual nature of death row: Ames dies violently like he is being tortured by the injection + was on death row for more than 5 years

Retribution + victim-motivated justice: Clyde tortures Darby senseless, cuts off eyelids and all limbs

Community safety/ incapacitation/ deterrence: "The world is better without Darby and Ames."

Leniency/ ineptitude: the judge is willing to set bail despite Clyde's torture of Darby because Clyde uses legal jargon and brings up prior precedents. Meant to show the justice system as more focused on law than rationality

Retribution: "Good over evil" "the righteous prospering, the wicked suffering"

Leniency/ ineptitude: If the cops had given Clyde his meal on time, Reynolds wouldn't have died

Community safety/ incapacitation/ deterrence: source says unless you put a bullet in Clyde's head, you're dead

Leniency/ ineptitude: "That's one of the benefits of being a judge, Mr. Rice. I can pretty much do whatever I want"

Leniency, ineptitude: Clyde says, "I'm at war with this, this broken thing" (the thing being the criminal justice system)

Retribution: Clyde kills more people because the justice system failed him

*Kick-Ass (2010):*

Community safety/ incapacitation/ deterrence: "We see someone in trouble and we wish we would help, but we don't"

Community safety/ incapacitation/ deterrence: Dave tries to prevent hoodlums from stealing a car and gets stabbed and hit by a car

Dehumanizing the perpetrator: the mob tortures one of its members by putting him in a big microwave and then he explodes

Leniency/ineptitude: cops aren't around or even called as Kick-Ass defends one man. When asked to call 911 no one does

Community safety/ incapacitation/ deterrence: Hit Girl kills thugs who are trying to kill Kick-Ass

Leniency/ ineptitude: cops are bought off by the mob

Dehumanizing the perpetrator: the mob boss shoots Kick-Ass and another guy too

Retribution: Big Daddy and Hit Girl want to kill Frank D'Amico for being responsible for her mother's death

Dehumanizing the perpetrator: the mob decides to kill Kick-Ass even though he didn't do anything to them

Victim-motivated justice: Hit Girl avenges Big Daddy's death and later says her dad would have been proud of both of them

Community safety/ incapacitation/ deterrence: Kick-Ass kills Frank D'Amico

Retribution: Red Mist appears to be on the track for vengeance at the end of the movie

*Trial by Fire* (2018):

Retribution + Community safety/ incapacitation/ deterrence + victim-motivated justice: hear on the radio and from the lawyer that there was always something off about Todd, that he needed to pay for killing his daughters and that the daughters needed justice

Miscarriages of justice: expert and witness tell lies; cops decide what their story is and paint the evidence to only support that verdict

Miscarriages of justice: very unfair trial, no witnesses called in favor of Todd Willingham

Empathy for the condemned + cruel and unusual nature of death row: warden calls Willingham "Baby Killer" and explains in detail how agonizing his death will be

Miscarriages of justice + empathy for the condemned: wardens beat up Willingham in isolation

Empathy for the condemned + cruel and unusual nature of death row: Todd says, "I wouldn't even treat my dog like this" after the corrections officers beat him and leave him in isolation for days

Empathy for the condemned: Stacy (Todd's wife) won't answer his letter. "All I see is cruelty and suffering"

Discrimination: "You know why it's called capital punishment? Because if you don't got no capital, you get punished for it." said by a Black man also on death row

Miscarriages of justice: lawyer did a terrible job, didn't impeach any witnesses or present alternative evidence

Discrimination: Why was I born Black and why were you born poor and stupid? Twice as many deaths in election year," said by the same Black convict as before

Empathy for the condemned: Ponch (Todd's friend on death row) is sad that his execution date is set. He claims that he is being executed for manslaughter and that he did not commit murder

Empathy for the condemned: Todd doesn't get any visitors and misses Stacy

Empathy for the condemned: Todd talking about his three baby girls

Retribution: “It’s just revenge. Isn’t that a little primitive”

Empathy for the condemned: Todd sends another letter to Elizabeth about how much he is rehabilitated

Empathy for the condemned: Todd hallucinates and talks to his dead daughter in his prison cell

Miscarriages of justice: Elizabeth reads the trial and sees all the ways Todd was wronged in the trial - bad experts, false testimony, etc.

Miscarriages of justice: learns that the testimony of one of the witnesses was fake

Miscarriages of justice: “Dr. Death” is the expert they bring in for capital sentences: didn’t even meet Todd before evaluating him as psychotic

Miscarriages of justice: “The system doesn’t work. It’s broken” says Todd’s lawyer

Miscarriages of justice “They tend to find what they’re looking for, even when it’s not there” in regards to Todd’s trial

Miscarriages of justice: Deny the appeal without even reading it

Miscarriages of justice: Johnny admits he was forced to recant his testimony

Empathy for the condemned: Todd is expecting a phone call from Elizabeth but she is in a car crash so he’s all alone when he is about to die

Cruel and unusual nature of death row: Todd is screaming “no” as he is taken to be executed; 12 years spent on death row

Wrongful execution: Todd is executed despite most definitely being innocent of intentionally murdering his children

*Just Mercy* (2019):

Discrimination: Cop pulls Johnny over and is biased against him as being the killer of a white woman because he is a Black man

Empathy for the condemned: Johnny D. says “I ain’t did nothing, and I think you got me confused with someone else”

Miscarriages of justice: jury of peers recommends life sentence but the judge overrides this and gives Johnny D. a death sentence

Discrimination: majority of inmates are Black

Empathy for the condemned: one of the inmates is grateful he won’t be executed in the next year because then his wife and kids can come

Discrimination: Bryan is in danger just by being a Black lawyer willing to help death row inmates

Miscarriages of justice: lawyer of one inmate openly in favor of death penalty

Discrimination: all the convicts working in the field are Black

Discrimination: Bryan is strip-searched even though he is an attorney

Miscarriages of justice: scene of about seven or eight inmates who had bad lawyers who didn’t prepare their defenses

Miscarriages of justice: Myers is one of the witnesses in Johnny D’s case and got a lesser sentence by lying and saying that Johnny D. was the murderer

Miscarriages of justice: Johnny D. had an alibi for the time of the murder

Discrimination: “This is just another way to lynch a black man”

Discrimination: Bryan talks about his grandfather being killed and no police coming because he was just another black man

Cruel and unusual nature of death row: Herbert (another death row inmate) cries, “They set my date” - very depressed; suffers from severe mental break PTSD, but this isn’t even mentioned in his trial

Miscarriages of justice: Arrest Darnell just because he was willing to testify in an appeals trial for Johnny D.

Miscarriages of justice: the guards put Johnny D. on death row before he even had a trial

Miscarriages of justice: Myers original statement said he didn’t know anything about the murder  
Empathy for the condemned: Herbert says, “Wish I didn’t have to do this alone.” and then talking to Bryan about how he has no family

Cruel and unusual nature of death row: Wayne Myers (the jailhouse informant) says, “Then came the smell of skin burning. I know that smell” in reference to being put on death row and witnessing an execution as a threat of what would happen if he did not testify against Johnny D.

Miscarriages of justice: tons of lies in the original case which are presented in the appeal trial

Cruel and unusual nature of death row: Bryan is in pain because he can’t save his clients

Wrongful execution throughout film since Johnny D. (and Ray) are convicted for crimes they didn’t commit

*Clemency* (2019):

Discrimination: the first condemned person we see is Hispanic

Cruel and unusual nature of death row: Victor’s (one of the condemned) mother is crying about her son who is going to be executed

Cruel and unusual nature of death row: can’t find Victor’s vein to insert the lethal injection

Cruel and unusual nature of death row: execution doesn’t go as planned; Victor is gagging and violently shaking

Cruel and unusual nature of death row: Bernadine, the warden, isn’t sleeping and may have depression because of her job

Cruel and unusual nature of death row: Anthony’s (another condemned person) lawyer says to Bernadine, “You’ve blocked every attempt I’ve made to treat him like a human being.”

Empathy for the condemned: Anthony Woods (death row inmate) apologizes for not seeing Marty (his lawyer) last week since his mom passed away

Cruel and unusual nature of death row: Bernadine has nightmares of executing her inmates and can’t sleep

Empathy for the condemned: Anthony is crying while Bernadine tells him about his upcoming execution

Empathy for the condemned: Woods tries to kill himself by banging his head against the cell

Wrongful execution + Miscarriages of justice: very likely that Anthony was not the person who killed the policeman, he is right-handed and taller than the left-handed shooter from the video and the jury all say they aren't sure and many of the witnesses have recanted their testimony

Empathy for the condemned: Anthony is so happy just to receive a letter

Victim- motivated justice: police's family wants the son of the murdered police man to be at the execution to get closure

Empathy for the condemned: Anthony's girlfriend/wife comes to visit him, and he is hopeful that he will get out

Cruel and unusual nature of death row: Bernadine has executed 12 people and is alone. It's ruining her marriage

Empathy for the condemned: Anthony's family doesn't show up

Empathy for the condemned: Anthony is wailing

Cruel and unusual nature of death row: "And to all the people who are about to take my life, may God have mercy on your soul" said by Anthony

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