



Reply to Donohue and Wolfers on the Death Penalty and Deterrence

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While John Donohue and Justin Wolfers Economists' Voice column is mainly concerned with criticizing Richard Posner and Gary Becker (who can take care of themselves) they also comment unfavorably on a paper that I wrote together with Hashem Dezhbakhsh and Joanna Shepherd. Donohue and Wolfers' comments are in some instances unfair or incorrect, and I want to briefly correct some of their misstatements. (It should be noted that a special issue of the *American Law and Economics Review* is

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to be devoted to this topic, and at that time my coauthors and I will have more detailed econometric comments to make.)

As they point out, an important issue is the specification of the measure of Republican voting in the most recent election; we used separate variables for each presidential election whereas Donohue and Wolfers' analysis in the *Stanford Law Review* uses one variable to measure voting in all presidential elections. It is true that we state the measure ambiguously in our paper. We originally received the data and the presidential voting variables from John Lott and David Mustard, and we measure this variable in the same way that they did. The theory behind Lott and Mustard's choice of separate election variables seemed also to apply in our case: because candidates and issues

vary among elections, the correlation between support for Republican candidates and capital punishment will also vary among elections. Indeed, Wolfers and Donohue do not claim that their Republican voting variable is better than our variables; it is simply measuring the relationship differently.

As readers of our paper can see, we tried numerous (about 48) specifications in the paper (many suggested by referees and by commentators from numerous presentations at several universities and academic conferences.) Following other empirical and theoretical papers examining capital punishment's deterrent effect, we used different measures of the probability of execution that were based on different ways that criminals might form perceptions of this probability.

As any empiricist knows, it is difficult to ever find perfect instrumental variables that are completely uncorrelated with crime rates. Most of our instrumental variables have been used in numerous empirical papers because previous researchers believed (often based on empirical testing) that the instruments were as uncorrelated with crime rates as one was likely to find. Indeed, numerous referees and commentators also believed that the instrumental variables were sound. Unfortunately, we did not try Donohue and Wolfers' instrumental variables; if we had we would have recognized that our results were fragile to some choices of instruments and refined or expanded our analysis.

However, it seems disingenuous to argue that our paper is "fundamentally flawed" when no readers prior to Wolfers and Donohue noticed the difficulty. Indeed, we presented our paper at the American Economic Association Meetings on a session with Donohue (when the Levitt-Donohue abortion paper was also presented) and Professor Donohue did not comment at that time on our "fundamental flaw." We are currently examining this issue and will provide

further analysis in the ALEA issue mentioned above.

Finally, let me state categorically that their comment that there is "a tendency of many authors to only report results that were favorable to a particular political position" is simply incorrect with respect to our work. My coauthors and I had no strong prior political beliefs; one of us was actually opposed to the death penalty. In fact, one of my coauthors has recently written a paper that claims that the deterrent effect may be limited to a few states, and that in most states, capital punishment likely has no effect, or even a positive effect, on murders (see Joanna Shepherd's 2005 article in the Michigan Law Review). The econometric specification we used gave us strong results (which Wolfers and Donohue were able to exactly replicate) and the numerous robustness tests (albeit using the same instruments) gave us confidence in these results. Moreover, unlike Donohue and Wolfers (2005), we made every effort to elicit comments before we published our paper. For example, as mentioned above, we presented it numerous times at professional meetings and universities. We originally posted

the paper on SSRN in 2001, and posted a revision in 2003. We sent our paper to a refereed journal for publication, rather than to a law review. None of these guarantee that a paper will be error free, but we made every effort to obtain professional criticism of the paper and to respond to such criticisms before publication.

Letters commenting on this piece or others may be submitted at

<http://www.bepress.com/cgi/submit.cgi?context=ev>

REFERENCES AND FURTHER READING

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