

Does the Death Penalty Get Used for “The Worst of the Worst”?

What Filters or Screens Really Determine Who Gets the Death Penalty?

- Is the defendant male or female?
- What race is the victim?
- What race is the defendant?
- What social and economic class status does the victim have?
- What social and economic class status does the defendant have?
- Do the victim’s family members support or oppose the death penalty?
- Are news media, politicians, and the general public clamoring for revenge?
- Are police investigating vigorously, skillfully, honestly, and open-mindedly?
- Did the murder occur in a death penalty state or a non-death penalty state?
- Did the murder occur in a county whose prosecutor likes to file death penalty charges, or one that files “life without any possibility of parole” charges instead?
- Is the county willing and able to spend the huge amount of money for a death penalty trial?
- Is the defendant getting “a jury of peers” or a jury from which some kinds of potential jurors (e.g., minorities and poor people) are systematically excluded?
- Can the defendant financially afford a high quality legal defense, investigators to search for and analyze evidence, funding to locate and bring witnesses, people to testify for the defense, people to testify about mitigating circumstances at the sentencing phase of the trial, etc.?
- Is the jury adequately informed about the legal matters, free from misinformation, emotional pressure, stereotypes, etc.?
- Does the defendant look good? Handsome, attractive, pleasant looking? Free from disfiguring tattoos or other distractions that stir up jury members’ fears?
- Is the defendant mentally healthy enough to help the defense, or does the defendant have mental illness, suicidal tendencies, or other problems that interfere?
- If the trial results in a death sentence, will the appeals be heard in a state supreme court that treats death penalty cases fairly?
- Are the federal appeals courts in this part of the nation fair-minded in death penalty cases, or do those federal courts tend to almost always agree with prosecutors?

After a murder case has passed through all these filters or screens, what do we end up with?
Something other than “the worst of the worst.”