

Legal counsel affects death penalty cases

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Legal counsel is a matter of life and death in Houston, but it is not necessarily tied to a defendant's socioeconomic status, according to new research by Scott Phillips, associate professor of sociology and criminology at the University of Denver (DU).

"Defendants who hired counsel for the entire case were never sentenced to death, and were much more likely to be acquitted," says Phillips.

"Even defendants who hired counsel for a portion of the case were less likely to be sentenced to death. Yet defendants who hired counsel appear to be just as poor as those who did not, suggesting that friends and relatives pooled resources in the hour of need."

Phillips studied 504 [death penalty](#) cases that occurred between 1992 and 1999 in Harris County, Texas - the capital of capital punishment. His research was published in the October issue of *The Journal of Criminal Law and Criminology*.

In Harris County the alternative to hired counsel is court-appointed counsel, meaning the judge assigns an eligible member of the private bar to the case. The county is the largest jurisdiction in the nation to use the appointed system rather than the public defender method.

Phillips calls for Harris County to change to the public defender method in order to remedy flaws in the appointment system, problems not addressed by the 2001 Fair Defense Act.

Phillips' research demonstrates that such flaws are not merely

procedural, but rather fatal. Though not a panacea, a public defender office would be staffed by salaried government attorneys who are autonomous. Indeed, research shows that public defenders have a superior performance record in capital cases.

"This is not an indictment of appointed attorneys," Phillips says. "The system is flawed, and because 252 of 254 counties in Texas use the appointment system, the research is relevant statewide."

Source: University of Denver

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