



The Death Penalty Project



University of the West Indies
Faculty of Law

PUBLIC OPINION ON THE MANDATORY DEATH PENALTY IN TRINIDAD

Roger Hood and Florence Seemungal

A Report to

**The Death Penalty Project and the Rights Advocacy Project
of the University of the West Indies Faculty of Law**

Co-funded by



Foreign & Commonwealth Office

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FOREWORD

In line with the trend worldwide, the *mandatory* death penalty has now been abolished in ten Caribbean countries and the discretion to impose a lesser sentence has been given to the judges of the Eastern Caribbean, Belize, Jamaica, the Bahamas and most recently Guyana. However, in relation to Trinidad & Tobago, in the case of Charles Matthew (*Matthew v The State* [2005] 1 AC 433), a majority of the Judicial Committee of the Privy Council decided – notwithstanding that the *mandatory* death penalty has been held to be cruel and unusual punishment in violation of fundamental human rights protected by the Constitution of Trinidad & Tobago – that it remained immunised from constitutional challenge by the operation of the “savings law clause” in the Constitution. As a result, Trinidad & Tobago remains one of only two Commonwealth Caribbean countries (Barbados being the other one) that still retains the *mandatory* death penalty.

In fact, Trinidad & Tobago will soon become the only Caribbean nation, as Barbados has now undertaken to abolish the *mandatory* death penalty in accordance with the decision of the Inter-American Court of Human Rights in the case of *Boyce et al v Barbados* (judgment of 20th November 2007, Series C. Number 169). The same international human rights obligations under the Inter-American human rights system that have convinced Barbados of the need to update their laws on the death penalty also apply to Trinidad & Tobago as do the standards under the International Covenant on Civil and Political Rights. Nevertheless, by maintaining the status quo Trinidad & Tobago is clearly not giving priority to its international human rights obligations. Whether this can be attributed to or justified by a high level of support for the *mandatory* death penalty among members of the general public is the focus of this timely and highly relevant report.

In Trinidad & Tobago, the death penalty remains popular with a majority of politicians and the electorate, no doubt largely in response to the ever increasing rate of crime and an unprecedented number of homicides committed in recent years. This standpoint has not, however, been based on the actual views of Trinidad’s citizens and in particular a real understanding of the level of support for the use of the *mandatory* death penalty for murder. Conscious of the need to find out the views of the citizens of Trinidad on the

current law, The Death Penalty Project has encouraged and supported this public opinion survey. This report is the third publication by Professor Roger Hood and Dr Florence Seemungal in recent years. The first report entitled *A Rare and Arbitrary Fate*, published in 2006, provided for the first time an analysis of the kinds of murder that were committed in Trinidad & Tobago (between 1998 – 2002) and the extent to which they resulted in a conviction for murder and a *mandatory* death sentence. This was followed in 2009, by the publication of their second study entitled *Experiences and Perceptions of the Mandatory Death Penalty for Murder in Trinidad & Tobago: Judges, Prosecutors and Counsel*. This successfully obtained the views of those intimately involved in the Criminal Justice process with regard to the use of the *mandatory* death penalty and showed very little support among them for its retention. It was therefore time to gather the views of the general public.

We would like to thank Professor Roger Hood and Dr Florence Seemungal for their dedication and commitment in producing this third study concerned with the use of the *mandatory* death penalty in Trinidad. Their work is groundbreaking and provides unique data from the only large scale and detailed survey of public opinion on the *mandatory* death penalty in the Caribbean. Based on their study, the only conclusion that can now be reached is that legislative change is required to abolish the *mandatory* death penalty as was the case recently in Guyana, with the introduction of the Criminal Law Offices (Amendment) Act in October 2010. We hope that this study will act as an indispensable guide to legislators in Trinidad & Tobago who will inevitably have to consider whether the *mandatory* death penalty can continue to be imposed based on the views of Trinidad citizens and in light of contemporary human rights standards. We would also like to thank Douglas Mendes SC, Tracy Robinson and Arif Bulkan of the Rights Advocacy Project of the University of the West Indies Faculty of Law for their support throughout and for their excellent advice on this project. Finally we would like to thank the former British High Commissioner to Trinidad & Tobago, Mr Eric Jenkinson and Mr James Dolan for their support and to the Foreign & Commonwealth Office for co-funding this research project with The Death Penalty Project.

**Saul Lehrfreund MBE and Parvais Jabbar
Executive Directors of The Death Penalty Project**

ACKNOWLEDGEMENTS

This research project could not have been contemplated yet alone completed without the steadfast support of our colleagues at The Death Penalty Project in London and at the Rights Advocacy Project of the University of the West Indies Faculty of Law. The executive directors of the Death Penalty Project, Saul Lehrfreund and Parvais Jabbar, initially encouraged us to undertake this project, secured the necessary funds for it, and provided wise counsel throughout. The involvement of Douglas Mendes SC, Tracy Robinson and Arif Bulkan of the Rights Advocacy Project not only added credibility to the research but ensured that we received excellent advice from distinguished Caribbean legal scholars. As ever, Nicola Goldfinch-Palmer at the Death Penalty Project supported us admirably.

We are also grateful to Senator Professor Patrick Watson who, when we sought advice on where to turn to ensure that the opinion poll would be expertly conducted, recommended Market Facts and Opinions Ltd of Trinidad. At MFO we received expert professional advice from the director Kimberley Philip (to whom we are especially grateful for drafting a note on the survey sampling method employed, which is embodied in Appendix 1), and from Erna Kirk who managed the fieldwork with devotion and skill and followed up our queries with alacrity. Finally we are indebted to all the interviewers and supervisors who ensured such a satisfactory response rate from the potential interviewees they approached as well as those who worked hard to complete the data entry.

We received excellent advice on the size of the sample from Dr Stephen Fisher and on the questions to be posed in the draft interview schedule from Dr Dietrich Oberwittler, Professor Michael Radelet, Professor Julian Roberts and Professor Barry Mitchell. To Professor Julian Roberts and Dr Mai Sato of the Centre for Criminology at Oxford University we owe a special debt for taking the time to read the whole manuscript and to offer us exceptionally useful advice.

We are however entirely responsible for the use made of the advice that everyone gave so generously to us.

We have taken the opportunity in this Final Report to make some small adjustments to the Summary Report that was placed on the website of the Death Penalty Project in February 2011 in order to provide data that might prove helpful in the debate on the death penalty which took place in the Parliament of Trinidad and Tobago at that time. There had not been time to check and cross-reference all the data for any inconsistencies at that time. We have done this thoroughly since then; hence some small changes have been introduced for accuracy's sake. None of these minor amendments of percentages alter in any substantial way the findings originally reported.

Roger Hood and Florence Seemungal
Oxford, April 2011

SUMMARY

This publication reports the findings from a public opinion survey, designed by the authors, of the views of a representative sample of 1,000 residents of Trinidad on the very topical subject of the death penalty, and in particular the support for and use of the mandatory death penalty for murder. The data was collected in Trinidad by face-to-face interviews between 16th November and 16th December 2010 by the experienced company, Market Facts and Opinions of Trinidad, and analysed by the authors. The research was funded by grants made to The Death Penalty Project which commissioned the project in association with the University of the West Indies Rights Advocacy Project of the Faculty of Law (URAP).

In order to gain a better impression of support for the death penalty, interviewees were shown three scenarios describing a murder: one involving a robbery, another involving a domestic murder by a woman, and a third involving a 'drugs-related' murder. Each of these types of case had two examples, one in which it was possible to perceive a mitigating element and one without the mitigating factor. These six cases were randomly assigned to interviewees so that 500 decisions were made on each case. Interviewees were asked to say what penalty they thought the offender deserved. Thus, 1,000 people made between them 3,000 decisions.

The results revealed that 89 per cent of Trinidadians are in favour of the death penalty. Thus only 11 per cent favoured its immediate abolition. However, only a quarter (26%) of the 1,000 respondents favoured the current law under which the death penalty is mandatory for all murders whatever the circumstances. When asked to say whether the death penalty was appropriate in the specific scenarios put to them, just under half (49%) of the 3,000 decisions resulted in the imposition of the death penalty. The proportion of the 1,000 persons interviewed who thought that the death penalty was the appropriate punishment for all three types of crime on which they made a decision was only 1 in 5 or 20 per cent. In none of the cases in which there were mitigating circumstances, including those involving a violent robbery-murder with a firearm and a drug-gang-related execution, did a majority of those reaching a decision choose death. They preferred to take into account mitigating factors, such as age and previous good character. This suggests that Trinidadians would

be unlikely to support a change in the law which limited the mandatory death penalty even to such a limited category of murder as those committed during a violent felony.

The main reason given for regarding the death penalty as the appropriate punishment for murder in the scenarios put to them was the need for retribution: that the offender deserved to be put to death. In a minority of cases (1 in 7), the reason given was the need to incapacitate the offender from committing further murders. But in only 1.3% of the cases did the respondents cite deterrence of others as one of the reasons for preferring the death sentence.

The high level of general support for the death penalty was contingent on it being enforced with no possibility that an innocent person could be executed. When asked whether they would still favour or oppose the death penalty if evidence became available to prove that innocent people have in fact sometimes been executed, the percentage of persons who would then support the death penalty would dwindle from 89 per cent to 35 per cent. Thus, it is reasonable to assume that legal reforms that would weaken the protection of the innocent would be likely to lessen the support for the death penalty by a large percentage.

Overall, a large majority of those interviewed (63%) favoured a discretionary death penalty, i.e. one imposed by a judge after considering the individual circumstances of the offence and the offender. Those favouring a discretionary system did so largely either because they recognised that not all who commit murder 'deserve to die' or they wanted to reserve it for the most 'gruesome murders'. This suggests that they would be unlikely to favour a mandatory system even for a smaller class of murders defined rigidly by statute, such as those involved in the commission of a violent felony.

Interviewees were asked whether they thought that juries would be more likely to convict for murder rather than manslaughter, if the mandatory death penalty were abolished. Almost the same proportion of those who favoured the mandatory death penalty (74%) said yes, as did those favouring the discretionary death penalty (76%). Altogether nearly three-quarters (73%) of the 1,000 Trinidadians interviewed, including those opposed to the death penalty, thought that abolition of the mandatory death penalty would bring about more convictions for murder.

The question of the level of support for the mandatory death penalty was also investigated by giving respondents two examples (each assessed by half the sample) of situations

where a person had been convicted of murder during a 'joint enterprise' even though he had not been the person actually causing the death. In both instances less than half the respondents thought that a conviction for murder was the most appropriate penalty.

Respondents were also asked what alternative to the death penalty they would in general favour if capital punishment were to be abolished, and also what alternative penalty they would impose in the scenario cases they judged where they had not imposed the death penalty. The findings indicate that there would not be majority support for the replacement of the mandatory death penalty with a mandatory sentence of life imprisonment without the possibility of parole, although that should be an available punishment at the judges' discretion.

When asked what they thought might be the most effective policy for controlling 'violent crime leading to death' in Trinidad and Tobago, only 36 per cent of those who favoured the mandatory death penalty gave as their answer 'a greater number of executions', while among those who favoured a discretionary death penalty, only 18% thought more executions would be the most effective policy. Altogether, only 21 per cent of the 1,000 persons interviewed put 'a greater number of executions' as first priority, while 43 per cent of the sample gave first place to 'better moral education of young people', followed by 'more effective policing' – 22 per cent.

Even more surprising, 36 per cent of those who supported the mandatory death penalty and 54 per cent of those in favour of a discretionary system rated 'greater number of executions of murderers' as the least likely policy to reduce violent crimes leading to death,

Thus, the findings from this public opinion survey, when taken in conjunction with the two previous studies on the use of the mandatory death penalty for murder in Trinidad and Tobago, strongly support the abolition of the mandatory penalty and its replacement for the time-being until full abolition may be achieved, by a fairer and more parsimonious discretionary system.

I THE CONTEXT

This is the third study of the use of the mandatory death penalty in Trinidad and Tobago to be undertaken by the authors on behalf of the Death Penalty Project and the Faculty of Law of the University of the West Indies within the past few years. The first study examined the incidence and types of murder reported to the police and the extent to which suspects were successfully prosecuted, convicted and sentenced to death under Trinidad and Tobago's mandatory death penalty law. The second was a survey of the opinions and practices of key legal professionals as regards the use of the mandatory death penalty. The research reported here deals with the opinions of Trinidad's citizens on these matters. We thought that before proceeding to analyse the findings of the public opinion survey, it would be helpful to readers who have not read and digested the earlier findings to present them here, so as to put this new study into context. Those who are already familiar with the outcome of the previous research may want to turn straight away to page 8.

The first study, published in 2006 under the title *A Rare and Arbitrary Fate: Conviction for Murder, the Mandatory Death Penalty and the Reality of Homicide in Trinidad and Tobago*, had aimed, through identifying the types of murder committed in Trinidad and Tobago and by following each case through the criminal justice process, to shed light on three issues. First, to what extent was the State successful in obtaining convictions for murder? Was there evidence to support the State's contention that a mandatory death penalty would act as a general deterrent to murder? Second, what types of murder resulted most frequently in a conviction and thus a mandatory penalty of death? Were they the most heinous types of murder? And was the mandatory death penalty evenly applied to cases of murder or arbitrarily applied due to the way in which the system of criminal justice operated? Third, to what extent was the mandatory death penalty counterproductive by making it harder for the State to secure convictions for murder?

The research covered two overlapping samples of cases: all 633 homicides recorded as murders by the police during the five-year period from 1st January 1998 to 31st December

2002¹ and all 297 defendants² prosecuted for murder and committed to the Trinidad and Tobago High Court for trial during the same period.³

It was found that between 1998 and 2002 murders attributed to ‘gang or drug-related’ disputes and those committed during the commission of another crime – most often robbery – increased very substantially, as did the number of killings where the body was found but the motive unknown. In 1998 these three categories made up between them 41 per cent of the recorded murders, but by 2002 they accounted for 64 per cent.

Taking into account the cases for whom no suspect was arrested, the proportion of all recorded murders committed between 1998 and 2002 that had resulted in a conviction for murder by the end of 2005 was very low, only 1 in 20 (5%), with 17 per cent resulting in a conviction for *either* murder *or* manslaughter. But the ‘success rate’ is probably even lower. The 38 *persons* convicted of a murder by the end of 2005 accounted for only 4 per cent of an estimated 1,000 persons who may have been involved in the 633 homicides reported as murder by the police between 1998 and 2002. Taking into account the 88 *persons* convicted of manslaughter only 126 (13%) had been convicted of homicide.⁴

The *conviction* rate for ‘gang-related’ murders and those where the body was ‘dumped’ or found was extremely low. By the end of 2005 only 2 of the 208 recorded murders of this kind resulted in a conviction for murder and two for manslaughter – 2 per cent together, although they had made up 33 per cent of the recorded killings. By contrast, 16 per cent of murders committed in the domestic situation resulted in a conviction for murder. Although they accounted for only 17 per cent of all recorded murders⁵ they made up 52 per cent of the 33 murders where a conviction and mandatory death sentence had resulted.

¹ However, in relation to 71 (11%) of these murders prosecution had still not been completed when the fieldwork came to a conclusion on 31st December 2005.

² The prosecution of 17 indicted persons had still not been completed by the end of 2005 and one person who had been found unfit to plead was still confined to a mental hospital. Thus a sample of 279 completed prosecutions for murder was obtained.

³ A substantial proportion (37%) of such cases had arisen from homicides recorded by the police well before 1st January 1998.

⁴ In 70 cases one person was convicted of manslaughter, in four cases two were convicted, in two, three and in one five persons were convicted.

⁵ Another 24 were convicted of manslaughter: thus 39% of the recorded domestic murders had resulted in a homicide conviction.

As far as other types of inter-personal altercations and disputes were concerned, only two of the 175 recorded murders of this type resulted in a conviction for murder and sentence to death and less than a quarter of these murders resulted in a homicide conviction of any kind. Of those murders committed during the course of involvement in another crime – usually robbery – for which the outcome was known (121), only 12 (10%) had resulted in a conviction for murder with a further 12 cases ending with a manslaughter conviction. Thus 80 per cent of such crimes had so far evaded punishment.

Thus, the research showed conclusively that in general the probability of a recorded murder resulting in a conviction for murder in Trinidad and Tobago was not only very low, but that no category of cases could be identified with a very high probability of conviction and mandatory sentence to death for murder. Nor even of a conviction *either* for murder *or* for manslaughter.

These findings were reinforced by the study of persons indicted for murder in the High Court of Trinidad and Tobago. Of the 279 indicted for murder where proceedings had been completed, only 58 (21%) – 1 in 5 – had been convicted of murder and 57 of them were mandatorily sentenced to death,⁶ whereas 35 per cent were convicted of manslaughter. Thus, it was clear that after very lengthy delays and great expense to the State the number of convictions for murder and death sentences that will eventually be upheld will be only a tiny fraction of the cases originally indicted and an even smaller fraction of all ‘murders’ recorded by the police.

The ‘worst of the worst’ murders were not in the majority of those that ended up being mandatorily sentenced to death. It was domestic-related murders, the most likely to be cleared-up by the police and brought to trial, that were the most likely to be convicted of murder and sentenced to death when the accused were brought to trial. They accounted for over a third (36%) of all persons convicted of murder and sentenced to death.

The findings of the research fully justified the conclusion not only that it had become exceedingly difficult to obtain a conviction for murder in Trinidad and Tobago but also

⁶ One, who was under the age of 18 at the time of the offence, was detained indefinitely at ‘the President’s Pleasure’. Leaving aside those whose plea to manslaughter was accepted by the court, still only a third of the 177 persons tried by a jury for murder were convicted of murder.

that it seemed likely that one of the reasons for this was the reluctance of witnesses to testify and jurors subsequently to convict people of murder when the result would be a mandatory sentence to death. It was concluded that such a low certainty of punishment made it very unlikely that the mandatory death penalty for murder would have had the general deterrent effect claimed for its retention, especially given the indications that the conviction rate for murder would rise if it were not the only punishment available. Furthermore the evidence showed that a conviction for murder and the inevitable death sentence which followed fell very unevenly on the persons indicted for murder, with a large proportion of them being applied to defendants with case characteristics which rarely resulted in a death sentence and whose crimes could not be described as ‘the worst of the worst’. Thus conviction for murder was truly both a rare and arbitrary fate in Trinidad and Tobago.

The second study was published in 2009 under the title *Experiences and Perceptions of the Mandatory Death Penalty for Murder in Trinidad and Tobago: Judges, Prosecutors and Counsel*.⁷ With the approval of the Chief Justice, it was based on interviews with 16 of the 19 criminal court judges of the Supreme Court of Trinidad and Tobago, including five Justices of Appeal and the Chief Justice; the Director of Public Prosecutions and all 12 lawyers in the Office of the Director; and 22 Counsel practicing at the Criminal Bar. This was at a time when the number of killings recorded by the police had shot up from 98 in 1998 to 547 in 2008 - a national rate of 40.8 per 100,000 of the population, roughly eight times higher than the national USA murder rate of 5.4 per 100,000 in 2008. At the same time, the number of persons committed for trial in the High Court of Trinidad and Tobago on a charge of murder, *as a proportion* of recorded murders, had declined from 62 (1 committal to 1.6 recorded murders) in 1998 to 72 (1 committal to 7.7 recorded murders) in 2008. The main findings were as follows:

A considerable proportion of judges, prosecutors and defence counsel, amounting to just over a half of those interviewed, were able to recall instances when, in their judgement a mandatory death sentence had been imposed which they considered to be an excessive

⁷ Roger Hood and Florence Seemungal, (2009) ‘Experiences and Perceptions of the Mandatory Death Sentence For Murder in Trinidad and Tobago: Judges, Prosecutors and Counsel’ in *A Penalty Without Legitimacy: The Mandatory Death Penalty in Trinidad and Tobago*, London: The Death Penalty Project.

punishment given the nature of the murder and the characteristics of the defendant. Furthermore, a majority of respondents from all sectors had dealt with cases where, in their judgment, the jury would have brought in a verdict of guilty to murder had it not been that the penalty would have been a mandatory death sentence.

Almost two-thirds of respondents, including 11 of the 13 prosecutors, said that they believed that the conviction rate for murder would increase if the mandatory element were to be abolished. And eight out of ten respondents believed that if the current mandatory death penalty for all murders were to be abolished it would not have a deleterious effect on the murder rate in Trinidad and Tobago.

Only four of the 51 respondents (one judge, one counsel and two prosecutors) were in favour of the present death penalty statute: in other words 47 of the 51 respondents favoured change. Nine of them (18%) favoured the retention of the mandatory element for a new statutorily defined category of ‘capital murder’ with no possibility of discretion being exercised by judge or jury over the penalty; six favoured a mandatory death penalty for capital murder but only if the judge or jury could recommend commutation of the sentence. The majority of respondents (32 or 63%) favoured a discretionary system, with guidelines applied for its application, including eight whose first choice would have been complete abolition.

As regards the alternative to capital punishment were it to be abolished, two thirds favoured a mandatory sentence of life imprisonment, with a minimum period of custody to be set by the judge (including detention for a full life term), subject then to review by an Independent Parole Board, as in the United Kingdom. Only five respondents (10% of those who responded to this question) were in favour of a mandatory life sentence without parole for all cases of murder.

The clearest conclusion to be drawn from this study was that there was very little support among those who administer punishment for murder for the *status quo* of a mandatory death penalty on conviction for murder, whatever the circumstances of the crime or of the offender. It appeared that the government could count on support from this influential and knowledgeable section of the community in repealing the mandatory death penalty for all murders, in line with the strong trend in policy elsewhere in the world where capital

punishment is still retained. As regards the system to replace it, the majority were in favour of discretion according to the circumstances before the court. There was still not a great deal of support from this sector of opinion for complete abolition at this stage, most likely because of perceptions of what the reaction would be from the general public at a time when the homicide rate is so high.

It is for this reason, particularly in view of the fact that since the decision of the Privy Council in the case of *Charles Matthew* in 2004, that the mandatory death penalty could only be repealed by Act of Parliament,⁸ we decided that it would be necessary to embark on a large-scale and detailed survey of public opinion, with particular attention being paid to the level of interest in, knowledge about and support for the mandatory death penalty. This does not mean that the authors believe that the question of whether capital punishment should be retained can be, or ought to be, decided on the basis of public opinion polls. On the contrary, we believe that the issue should be determined by the principle that democratic states should protect the human rights of all its citizens, even the least well-behaved among them, and foremost among these rights are the right to life and to be free from cruel, inhumane and degrading punishment. Nevertheless, at a time of very heightened sensitivity to a rate of murder that is undoubtedly regarded as unacceptable in Trinidad and Tobago, politicians will inevitably be sensitive to the views of their constituents and may well make assumptions about the level of support for the death penalty, in particular the mandatory death penalty, and the reasons why members of the public may or may not regard it as necessary to continue to enforce it. This study was therefore an attempt to enlighten legislators and other citizens with a voice in public affairs on what the citizens of Trinidad really think about this issue.⁹

It has not been possible to find other opinion polls on this subject in the Caribbean which deal specifically with the mandatory death penalty or which have used a similar methodology to reach such a large sample through face-to-face interviews. However some

⁸ *Matthew v. State of Trinidad and Tobago* [2005] 1 AC 433 at 447.

⁹ For a review of studies of Public opinion on the death penalty and its significance, see Roger Hood and Carolyn Hoyle, *The Death Penalty: A World-wide Perspective*, 4th edition, 2008, Oxford University Press, chapter 10, 'A Question of Opinion or a Question of Principle', pp. 350-382.

useful comparative material was gathered through a survey of the views of 650 individuals (50 being from the 'general public') sampled from 13 'stakeholder' categories, such as the police, victim groups, prison staff, religious leaders) in 2007 by the University of Westminster. This is referred to as the 'Gore' study in Trinidad. Such comparisons will be footnoted where appropriate.¹⁰

¹⁰ *Attitudes toward Capital Punishment in Trinidad and Tobago: Analysis of responses to a survey of stakeholders* by the Caribbean Center for Human Rights. Initial basic analysis by Patricia Capes, November 2007. Available from the Centre for Capital Punishment Studies, University of Westminster.

II THE SURVEY AND ITS METHODS

We now report on the findings of this survey of the opinions of a representative sample of 1,000 residents of Trinidad, almost all of them citizens, on the use of and justification for the death penalty, in particular the support for and use of the mandatory death penalty for murder under the current law in Trinidad and Tobago. The data was collected in Trinidad (but not Tobago for reasons largely of the cost involved in collecting what would have been a small sample of interviews) by face-to-face interviews between 16th November and 16th December 2010.

The survey was commissioned by the Death Penalty Project in London in association with the Rights Advocacy Project of the University of the West Indies Faculty of Law. The interview schedule, which included ‘scenario cases’ about which respondents were asked to state what they thought the appropriate penalty should be, was designed by the authors (see Appendix 2), who also carried out all the statistical analyses using IBM SPSS Statistics 19. The sampling and interviewing was undertaken efficiently and expertly by the experienced company, Market Facts and Opinions of Trinidad. The project was funded by grants made to The Death Penalty Project.

A sample of 1,000 people is likely to produce very little error in a country with a population of 1.26 million. Of all those approached for interview, 65 per cent agreed to take part, with only a tiny proportion of these expressing some reluctance; a very satisfactory outcome. The proportions of males and female respondents; persons with African, East Indian or mixed heritage; and the location of their residence (over 12 areas of the country) were very close to the proportions found in the total population (see Appendix 1 for a fuller explanation of the methodology of the survey). When the sample was split between the first 500 interviews analysed and the second 500, the findings were virtually the same – another index of their reliability.

In this report we have followed in the text the practice of reporting opinion polls everywhere by rounding up or down all percentages to the nearest whole number. As most are proportions of 1,000 or 500 the actual number of respondents is easy to calculate (e.g. 250 = 25% of 1,000 and 50% of 500).

III THE FINDINGS

1. Interest and knowledge

There can be no doubt that the subject of the death penalty provokes a great deal of interest among the citizens of Trinidad. Most of those interviewed (82%) said that they were very interested (42%) or interested (39%) in the issue. Only three per cent were not interested at all. Moreover it was a subject on which the majority (60%) of Trinidadians said they conversed several times a year, and 81 per cent at least once a year. Nearly one in five however said they spoke about it either less than once a year (10%) or never talked about it at all (9%).

Yet when asked how well *informed* they were about the use of the death penalty less than one in six (17%) said they felt very well informed or knew a great deal. Just over a third (37%) thought they were quite well informed, but almost half (47%) either knew little (43%) or even nothing (4%) about it. Thus, the findings of this survey must be interpreted in the context of a population, the majority of whom are concerned about the issue of the death penalty, but among whom there is a good deal of ignorance as to how it operates in Trinidad. This produced among some respondents inconsistency between their answers, a problem which plagues opinion pollsters everywhere.

2. Support for the death penalty

An explanation of the mandatory death penalty system in Trinidad and Tobago – under which death is the only penalty available to the judge when someone is convicted of murder - was first carefully read and then shown on a card to each interviewee, who was then asked:

“Do you agree with this? OR Do you think that the judge should be given some discretion based on the circumstances *of the offence and/or the offender* to decide whether to sentence a person convicted of murder to death?” Four responses were coded, including “I am completely against the death penalty and would like to see it abolished” or that “I don’t know/I have no opinion either way”.

It was clear that *only a minority – just over a quarter (26%) - favoured the mandatory death penalty*, but most of those who did (91%) said they supported it ‘very strongly’.

This was evident also when those in favour of the mandatory death penalty were asked whether Trinidad and Tobago should follow the practice of other Caribbean countries that had abolished, or were in the process of abolishing, the mandatory death penalty, leaving the decision whether to impose it for the very worst cases to the judge. Only two per cent definitely said ‘yes’ their country should do so.

Yet a large majority of the respondents - *nearly two-thirds (63%)* - *said that they would prefer the death penalty to be discretionary* so that it could be imposed only after consideration of all the circumstances by a judge. The view that mitigating circumstances, as well as aggravating factors, should be considered was confirmed when the respondents themselves were asked what sentence they would impose on three ‘scenario’ murder cases (see section 8 below).

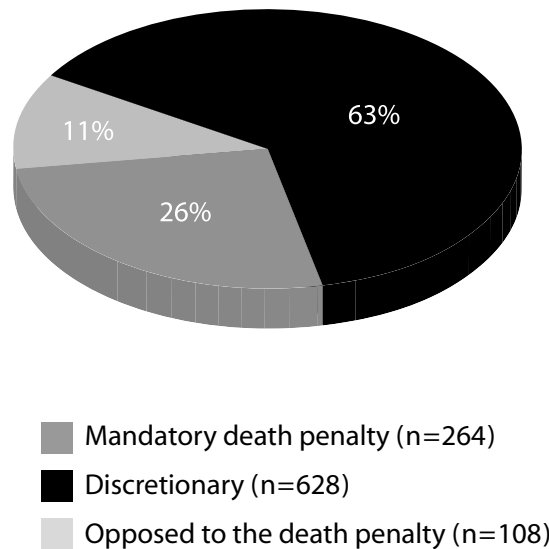
Only 91 (9%) of the interviewees originally answered this question by saying that they were *opposed to the death penalty*. Something needs to be said about this figure because so much emphasis was placed on it by the Government during discussion of the Constitution (Amendment) (Capital Offences) Bill 2011 in the Parliament of Trinidad and Tobago between 18th to 28th February, 2011.

We recognise that the question itself, focusing as it did on the mandatory or discretionary death penalty, with complete abolition as a possible, but perhaps not directly sought for, option, may have minimised the proportion who were in fact opposed to capital punishment when it came to thinking more about it in the light of other questions. We have therefore looked very carefully at the data to see whether any persons who had said they were in favour of the death penalty, mandatory or discretionary, had nevertheless said that they were absolutely opposed to capital punishment when explaining why they had not imposed the death sentence when deciding the appropriate sentence for all the three scenario cases they were later asked to judge. We discovered 17 clear instances¹¹ where they had done this. The responses of these persons who did not immediately mention their underlying opposition to capital punishment were therefore recoded as opponents of the death penalty, thus increasing the proportion from nine to eleven per cent and slightly

¹¹ 16 in which the respondent had originally said he/she was in favour of the discretionary death penalty, and 1 where the respondent was ‘not sure’.

reducing the proportion who favoured the death penalty, but only if there was discretion available to the judge. Figure 1 shows the data as accurately portrayed as possible after these small amendments.

Figure 1
Level of support for the mandatory death penalty



The overall level of support for the death penalty was maintained when those who said they favoured it were told that:

“More than half of the countries in world have now abolished the death penalty completely and more are doing it every year” and asked “Does this make any difference to your view on whether Trinidad and Tobago should follow this practice and abolish the death penalty completely, or not do so?”

This increased only very slightly the proportion in favour of abolition:

- 86 per cent said ‘No’ Trinidad and Tobago should not therefore abolish the death penalty
- 12 per cent said ‘Yes’ Trinidad and Tobago should abolish the death penalty.¹²

¹² Just over 1 per cent said they were unsure.

It is clear that all these questions indicate that support for abolition in the country is at present low. However, we have in this survey other means of measuring the depth of commitment to the death penalty when citizens are faced with the reality of whether or not a person who has committed murder deserves to be sentenced to death. We shall return to this issue later in this report.

3. Who supported the mandatory death penalty?

There were no statistically significant differences in the proportions of men (27%) and women (26%); or between those aged 18-44 (27%) and those aged 45 or older (26%) in support for the mandatory death penalty. But there was a substantial and statistically significant difference according to ethnicity: 34 per cent of Trinidadians of East Indian descent favoured the mandatory system as opposed to 19 per cent of African origin and 24 per cent of those of mixed racial origin.¹³

As regards religious belief, Hindus (38%) were the most likely to support the mandatory death penalty, followed by a substantially lower proportion among Muslims (28%) and Roman Catholics (26%), and then by other Christians and non-believers (23%).

4. Why was the mandatory death penalty supported?

Those who favoured the mandatory death penalty were shown a list of possible reasons why they might do so and asked to rank them from the one they most favoured to the one they least supported (See Table 1).

A very large majority chose as their first reason one of the phrases denoting retribution: 229 of the 264 supporters of the mandatory death penalty (87%) emphasising equal treatment for all who murder and thus deserve death, including giving satisfaction to all relatives of the murdered victims.¹⁴ Given the weight of argument by those who claim that the mandatory death penalty is necessary to get maximum deterrent effect from capital punishment, it was very noteworthy to find that only 30 (11%) of those who favoured it among the respondents to this survey put deterrence as their first objective.

¹³ $\chi^2 = 22.53$, 2df, $p < 0.001$

¹⁴ The GORE study (n. 10 above) found that 'almost 70 per cent of respondents agreed at least partly with the principle of a "life for a life".'

Moreover, the majority of those who supported the mandatory death penalty on retributive grounds did not rank deterrence at all among their reasons. Thus, of the 129 who gave ‘murder is murder, everyone should be treated the same’ as their first reason, 95 (74%) gave NO rank to deterrence and of the 68 who gave ‘there can be no excuses’ as their first reason, 46 (68%) gave NO rank to deterrence. Conversely of the 30 (11%) who gave deterrence as their main reason, 23 (77%) gave NO rank to ‘murder is murder’, and 20 (67%) gave NO rank to ‘no excuses. Everyone found guilty of murder deserves to die’

Thus there was very strong evidence that retributive reasons dominate support for the mandatory death penalty and that a very small proportion argue for it from a deterrence standpoint, even as second, third or fourth reason. This was confirmed when respondents were asked to give their reasons for choosing the death penalty in ‘real’ scenario cases (see section 8 below).

Table 1
Main reason for supporting the mandatory death penalty

Main (placed first) reason	Per cent
<i>Murder is murder, everyone should be treated the same, otherwise it would be unfair</i>	48.9
<i>There can be no excuses, everyone found guilty of it deserves to die</i>	25.8
<i>The only way to make sure that all people who have had a close relative murdered can receive satisfaction</i>	12.1
<i>Judges vary too much in how they treat similar cases</i>	1.9
<i>Unless the punishment is certain with no exceptions, it will not be a powerful deterrent</i>	11.4
Total Number	264

5. How strong was the retributive as compared with the deterrent support for the mandatory death penalty?

Respondents were asked whether their support would still be strong for the death penalty (whether mandatory or discretionary) ‘if new scientific evidence proved that the death penalty was not a better deterrent than long imprisonment’. Of those who favoured the mandatory death penalty 80 per cent said their support would still be as strong and a further 7 per cent said that it would remain somewhat strong: 87 per cent altogether.

This again demonstrates a retributive rather than a utilitarian basis for the support of the mandatory death penalty. In comparison, about half as many (41%) of those who supported a discretionary death penalty said they would continue to support it strongly, plus 19 per cent ‘somewhat strongly’, 60 per cent altogether, even if it were not a deterrent to murder.

Further confirmation came from the responses to a question on which, among five possible policies they thought might be most effective in *controlling ‘violent crime leading to death’* in Trinidad and Tobago (See Table 2 for the list). Among those who favoured the mandatory death sentence only 36 per cent stated as their first choice ‘*a greater number of executions of murderers*’, and the proportion among those who favoured a discretionary death sentence was even lower at 18 per cent. Indeed, only one in five (21%) of all those interviewed (whether in favour of the death penalty or not) put more executions at the top of their list: that place was given to ‘better moral education of young people (43%).¹⁵

Even more surprising was the finding that just over a third (36%) of those who supported the mandatory death penalty rated ‘*greater number of executions of murderers*’ as the least likely of the five policies to reduce violent crimes leading to death; as did 52 per cent of those favouring the discretionary death penalty. Altogether, including the small proportion completely opposed to capital punishment, about half of those interviewed (52%) believed executions would be the least effective violence control policy.

¹⁵ The GORE study (n. 10 above) had reported that “capital punishment is perceived to be the least effective approach to reducing serious violent crime”, at p. 18. In the United States a national poll of police chiefs ranked capital punishment bottom of their law enforcement priorities for achieving a safer society. See Richard Dieter (2009), *Smart on Crime: Reconsidering the Death Penalty at a Time of Economic Crisis*, A Report from the Death Penalty Information Center, Washington, DC, p. 6. <http://www.deathpenaltyinfo.org/documents/CostsRptFinal.pdf>

Table 2

Please rank on a scale of 1 to 5 which you think are the policies most likely to be able to reduce very violent crimes leading to death in Trinidad and Tobago

Original position	Most effective policy: percentage ranked first					Total Number ¹⁶
	Greater number of executions of murderers	More effective control of possession of guns	More effective control over trade in drugs	Better moral education of young people	More effective policing to bring criminals to justice	
I favour the mandatory death penalty	35.6	6.4	5.3	32.2	20.1	264
I favour the discretionary death penalty	18.0	7.5	6.8	45.2	22.1	628
Opposed to the death penalty	0	13.0	6.5	53.7	26.9	108
Total all respondents	20.7	7.8	6.4	42.7	22.1	1000

Furthermore, as Table 3 shows, when they were asked whether they thought that juries would be more likely to convict for murder rather than manslaughter if the mandatory element of the death penalty were to be abolished, almost the same proportion of those who favoured the mandatory death penalty (74%) said YES, as did those favouring the discretionary death penalty (75%). Thus, altogether nearly three-quarters (73%) of the 1,000 Trinidadians interviewed thought that abolition of the mandatory death penalty would bring about more convictions for murder. In other words, it would create greater certainty of punishment for the worst crimes, something which, as was found in the report *A Rare and Arbitrary Fate*, published by the authors in 2006, that the current mandatory system clearly does not achieve.

¹⁶ NOTE: There were three non-responses to this question: 1 favoured the mandatory death penalty, 2 favoured the discretionary death penalty

Table 3

Would juries be more likely to convict for murder rather than manslaughter if the mandatory death penalty were to be abolished: percentage?

	Yes	No	Don't know	Total Number
I agree with mandatory death penalty	73.5	18.9	7.6	264
I favour the discretionary death penalty	75.0	18.0	7.0	628
I oppose the death penalty	62.0	27.8	10.2	108
TOTAL	73.2	19.3	7.5	1000

6. Support for a discretionary death penalty

As was seen in Figure 1, 89 per cent of citizens said they were in favour of the death penalty. However, a large majority of these supporters of the death penalty – 71 per cent – favoured it being discretionary, not mandatory. The main reason they gave is set out in Table 4.

The majority emphasised the different circumstances in which a murder could be committed (the first three items account for 62%). A third chose to put first the idea of restricting death to those who committed the most gruesome murders (34%) but only three per cent mentioned those who ‘could never be rehabilitated’.

Table 4

Main reason for favouring a discretionary death penalty

Main (first choice reason)	Per cent
<i>Circumstances differ: not everyone who commits a murder deserves to die</i>	35.7
<i>Mitigating circumstances should always be taken into account</i>	17.4
<i>Some people who commit a murder deserve another chance: they can be rehabilitated</i>	9.2
<i>Should be reserved only for the most gruesome murders</i>	34.2
<i>Should be reserved only for those who could never be rehabilitated</i>	3.0
<i>No reason given</i>	0.5
Total Number	628

A further analysis showed that over half (57%) of the respondents who ranked 'circumstances differ' first, gave no rank (i.e. did not consider it one of their reasons) to 'reserved for the most gruesome murders'. And of those who ranked first 'mitigating circumstances should always be taken into account', (72%) did not give as a reason 'reserved for the most gruesome murders'. This suggests that the majority of supporters of the discretionary death penalty might not support a revision of the law that retains a mandatory death penalty for a category of crime classified as 'gruesome murders'.¹⁷

7. Innocence and its impact on the level of support for the death penalty

To what extent was support for the death penalty contingent on its use only for those persons who are truly and without question guilty of the crime for which they have been convicted? Respondents who favoured either the mandatory or discretionary death penalty were asked whether they would still support capital punishment if evidence became available that *proved* that *innocent* people have sometimes been executed. This possibility had a large effect: the level of support would be much lower for both groups. See Table 5.

Of those who had favoured the mandatory death sentence, only 102 (39%) of the 264 would still favour it strongly, with another 43 (16%) still 'somewhat' in favour. Thus the proportion of all 1,000 interviewees who still would favour the *mandatory* death penalty if it were proven that innocent people have sometimes been executed would fall from 264 to 145 (15%), with only 102 (10%) still 'strongly favouring' it. Put another way, a very large majority of Trinidadians would oppose the *mandatory* death penalty if they had evidence that someone had been executed although innocent.

Including those who were in favour of a discretionary death penalty (a much higher proportion of whom (49%) would *strongly* oppose it if an innocent person were found to have been executed) as well as those 108 respondents who were in any case completely opposed to it, the proportion of all interviewees who would still favour the death penalty strongly (22%) or somewhat (12%) if evidence of the execution of innocent people were

¹⁷ In this respect the findings mirror public opinion elsewhere which favours discretionary over mandatory sentences of imprisonment. See Robert, J.V. (2003) 'Public opinion and Mandatory Sentences of Imprisonment: A Review of International Findings'. *Criminal Justice and Behavior*, 20: 1-26

brought to light would be only around one third of the population.¹⁸ And of the 64 per cent who would now be opposed, the majority (77%) would ‘strongly oppose it.’¹⁹

This is very different from the 89 per cent level of support for the death penalty (see Figure 1) when no mention of the possibility of innocence was drawn to their attention.

Table 5
Effect of evidence to prove that innocent people have sometimes been executed on support for the death penalty

Original position	Percentage level of support for the death penalty					Total Number
	Still strongly in favour	Somewhat still in favour	I would then/still strongly oppose it	I would then /still somewhat oppose it	Don't know	
I favour the mandatory death penalty	38.6	16.3	30.7	12.5	1.9	264
I favour the discretionary death penalty	19.4	12.6	48.6	17.5	1.9	628
TOTAL favour mandatory/ discretionary death penalty	25.1	13.7	43.3	16.0	1.9	892
TOTAL including 108 already ‘strongly opposed’ to the death penalty	22.4	12.2	49.4	14.3	1.7	1000

This again suggests strongly that support for the death penalty rests on retributive desires rather than its supposed deterrent effect. If innocent persons were proved to have been executed the majority of those who favour capital punishment in Trinidad would no longer do so. Furthermore, it indicates that there would be very little public support if procedural safeguards were to be eroded in Trinidad and Tobago to the extent that the possibility of an innocent person being executed were to increase substantially.

¹⁸ The GORE survey showed that when respondents were asked ‘whether the risk of executing innocent people should be a factor in the abolition decision’, only 41 per cent disagreed and only 18 per cent completely disagreed. A third agreed that it should be and 25 per cent were undecided. About half (52%) disagreed with the view that ‘the criminal justice system is reliable enough to protect the innocent against being convicted for crimes that lead to the death penalty’. One third (34%) agreed that it was reliable enough, but only 14 per cent agreed completely, with another 14 per cent undecided.

¹⁹ 49 per cent of the 64% opposed to the death penalty if it were proven that innocent persons have sometimes been executed (see the bottom line of Table 5).

8. Support for the death penalty in reality

In order to gain a better impression of the depth of support for the death penalty among those who favoured either the mandatory or discretionary death penalty, interviewees were shown three scenarios describing a murder: one involving a robbery, another involving a domestic murder by a woman, and a third involving a ‘drugs related’ murder. Each of these types of case had two examples, one in which it was possible to perceive a mitigating element and one without the mitigating factor but with an aggravating factor. There were eight possible combinations ranging from receiving three examples all of which had mitigating circumstances, through a mixture of cases having mitigating or aggravating factors, to all cases having aggravating factors (see the Methodological Appendix). These eight groups of cases were allocated in sequence to the interviewees, to ensure that the outcome reflected the balance of cases received. Each scenario case was judged by close to half the total sample: thus 500 judged an example with a mitigating factor, and 500 a cases with an aggravating factor.

A. Robbery murders

Case 1: A man robbed a local shop with a gun and killed the owner by shooting him in the head. He took away with him 200 dollars cash. He had not previously been convicted of any crime. He was convicted of murder.

Table 6
Percentage in this case with a mitigating factor choosing the death penalty

Sentence Chosen	Favoured Mandatory Death Penalty	Favoured Discretionary Death Penalty	Opposed to Death Penalty	Total Number	Per cent
Death	71.8	43.1	0	220	43.9
Not Death	28.2	56.9	100	281	56.1
Total Number	110	327	64	501	100

Comment: Overall, less than half of those interviewed (44%) thought that death was the appropriate sentence for this case, despite it being a murder by firearm in the course of committing a felony. Even more than a quarter of those who supported the mandatory death penalty did not choose death.

The main reason why interviewees chose the death sentence in this example was that it was “deserved”: based either on the maxim of ‘a life for a life’, ‘murder is murder,’ or because the murder was ‘deliberate’ as evidenced by the gun, or unwarranted to gain such a small amount from a robbery without with killing ‘an innocent man’.

A life for a life: he did the crime so he has to stand the consequences, which is death.

Because he deliberately shot the owner and robbed him of \$200, it was premeditated murder. That’s why he deserves to die.

Because he is a petty criminal who killed an innocent man for \$200 the sentence should be death.

A very small proportion (14 of the 220 or 6%) gave as their reason the need to make sure that the defendant should not be able to commit a murder again:

Because he killed the man if he is to be released he could repeat these crimes, so death sentence is the penalty.

However, only one person gave as his or her reason for choosing the death penalty that it was necessary to deter others from murder.

I choose the death penalty to send a message to those who will even consider committing a crime like this to not to do it because their punishment will be death.

Leaving aside the minority who were opposed to the death penalty under all circumstances, the majority among those who in general had supported the death penalty who did not choose the death sentence for this case, emphasised mitigation for having no previous convictions, this being his first offence and thus, like ‘everyone’ he deserved a ‘second chance’ to be rehabilitated or to ‘turn his life around’. Several others thought that being a first offender he may have been nervous and frightened of the victim and shot him as a reaction; that he went to rob but the murder was incidental and therefore ‘not deliberate’, nor especially ‘grievous’. A few others thought that he would suffer more in prison than being ‘instantly’ put to death. Some examples were:

Because he has never been convicted of a crime before he should be given another chance, but he should be punished.

A person like this could be rehabilitated so the death sentence wouldn't be suitable. It is a murder but not a grievous one. So death penalty is not necessary.

Because it is a first time offender it may be the anxiety of fear that made him pull the trigger or desperation that made him murder.

Because I don't think it was a planned murder – not premeditated.

Case 2: *A man robbed a local shop with a gun and killed the owner by shooting him in the head. He took away with him 200 dollars cash. He had previously been in prison twice for robbery. He was convicted of murder.*

Table 7

Percentage in this case with an aggravating factor choosing the death penalty

Sentence Chosen	Favoured Mandatory Death Penalty	Favoured Discretionary Death Penalty	Opposed to Death Penalty	Total Number	Per cent
Death	88.3	71.1	0	351	70.3
Not Death	11.7	28.9	100	148	29.7
Total Number	154	301	44	499	100

Comment: In this case, where there were no mitigating factors but the aggravating factor of two previous convictions for robbery, each serious enough to have earned a prison sentence, seven out of ten respondents chose the death penalty: those in favour of the mandatory death penalty (88%), more often than those who supported judicial discretion (71%). The total supporting death for this case (70%) is still considerably lower than the 89 per cent who had said that they supported the death penalty.

Again the main reason why death was chosen was that it was 'deserved' especially because the offender had previously been in prison for robbery and failed to learn from the experience. He had had 'a chance'. But about a quarter (90 respondents) added another layer: that he was a danger or menace to society and would 'do it again' if not executed – he was not reformable and should be incapacitated.

A life for a life he did the crime it is only fair that he should stand the consequences death.

Because he didn't had a reason for murdering someone and was in prison twice so he deserved the death sentence.

He was in prison twice for robbery and should have learnt and because of the fact he went from robbery to murder then he is going from bad to worse. The trend he is pushing is he will always be a menace to society.

Because he committed robbery before and did it again but this time took a life in the process, death – he refused to change his ways.

A repeat offender who obviously hasn't learned his lesson. We can't imprison him and let him back in society to repeat the same offence.

Because he not fit for society any more. He cannot be rehabilitated cause he was in prison twice, so these characters have to be removed.

However, only two of the 351 who thought he should be put to death mentioned the potential deterrent effect of the sentence on others who might kill.

He has not changed after being in prison twice and also to use him as an example to anyone who thinks of taking another human life.

The country has to start setting an example to stop crime in general.

Despite this being the type of case for which a mandatory death sentence would most likely be retained if murders were classified into first (mandatory), second (discretionary), and third (no death penalty) degrees, three out of ten interviewees did not think that death was the appropriate penalty. Besides those who were in principle opposed to capital punishment under any circumstances, the main reasons for not considering death was the appropriate punishment in this case were that: this was his first murder and that didn't deserve death, that he could be rehabilitated, it was not clear that he intended to kill, that the crime was not sufficiently 'gruesome', and that life imprisonment where he could contemplate what he had done would be a more severe penalty.

Because is only one murder he commit and it's his first murder conviction and don't think he deserves the death sentence. He deserves another chance.

Because he only used to rob, he never killed anyone before. So imprisonment without release to think about his actions.

He did not commit a very gruesome murder. I believe the death sentence should be left for such cases.

Because he is a criminal with more than two convictions he should be given prison time as harsh punishment and the death sentence is just an easy way out.

B. Domestic murders

Case 1: A woman who had been abused by her husband for many years decided to kill him by poisoning his food. A neighbour discovered the death of the husband and reported it to the police and the wife was convicted of murder.

Table 8

Percentage in this case with a mitigating factor choosing the death penalty

Sentence Chosen	Favoured Mandatory Death Penalty	Favoured Discretionary Death Penalty	Opposed to Death Penalty	Total Number	Per cent
Death	23.1	7.1	0	51	10.2
Not Death	76.9	92.9	100	451	89.8
Total Number	117	340	45	502	100

Comment: In this case, where there were extenuating circumstances the proportion choosing death was only about one in ten ; and less than a quarter (23%) among those who had said they supported the mandatory death penalty. Only seven per cent of those who favoured judicial discretion would themselves have imposed capital punishment. Public opinion appears to favour strongly the removal of the death penalty from cases like this.

The small proportion who favoured the death penalty did so on the grounds that a planned premeditated murder, when other solutions such as seeking professional help or leaving her husband, was available to her, deserved death. Examples were:

A life for a life: she should have found some way to leave him and then too it was premeditated.

She did something wrong. Poisoning someone is murder - she could have gone for help. She needs to be hanged for taking that life.

Not one person mentioned deterrence of others, although two thought that she might do it again.

Those who did not choose death were sympathetic to her plight and while not endorsing the killing felt that she did not deserve to suffer death.

Case 2: *A woman deliberately poisoned her husband, who died, so that she could be free to live with her lover. She was convicted of murder*

Table 9

Percentage in this case with an aggravating factor choosing the death penalty

Sentence Chosen	Favoured Mandatory Death Penalty	Favoured Discretionary Death Penalty	Opposed to Death Penalty	Total Number	Per cent
Death	76.9	65.0	0	304	61.0
Not Death	23.1	35.0	100	194	39.0
Total Number	147	294	57	498	100

Comment: For this deliberate murder for personal gratification there was a difference in the proportions (77% v 65%) who thought death was the appropriate penalty between those favouring a mandatory or a discretionary death sentence. Altogether, almost 40 per cent did not think that death was deserved. Overwhelmingly the reasons given for imposing the death penalty were that the murder was deliberate and premeditated, done ‘on purpose and with intent’, furthermore it was unnecessary because she could have left him or filed for divorce. It was deserved.

Because she deliberately killed her husband. She had premeditated the murder – she deserves to die.

Because she killed her husband and she didn’t have to kill him. She could have find another way to deal with this matter, so she deserves the death penalty.

In relation to this case, only a small a minority – 18 (6%) of the 304 who chose the death penalty - drew the conclusion that if she could carry out such an act she might do it again:

If she can plan and kill her husband, she can do it anyone

Because she can do it to her next husband, she will kill to be with a man so what will she kill for, anything?

An even smaller minority – 3 of the 304 – justified their choice of the death penalty, in part by the claim that it would act as a warning to other wives, for example:

Because if she remains into society she will be setting a bad example for others to follow so that she deserves the death penalty.

C. Drug/gang-related murders

Case 1: *A young man aged 19 deliberately shot dead a drug dealer who had failed to pay a debt. He had no previous convictions for violence and had said that he killed the victim on the orders of an older man. He was convicted of murder.*

Table 10

Percentage in this case with a mitigating factor choosing the death penalty

Sentence Chosen	Favoured Mandatory Death Penalty	Favoured Discretionary Death Penalty	Opposed to Death Penalty	Total Number	Per cent
Death	56.1	34.3	0	183	36.6
Not Death	43.9	65.7	100	317*	63.4
Total Number	139	306	55	500*	100

Comment: In this case of deliberate and planned murder with a firearm less than four out of ten (37%) interviewees chose death as the appropriate penalty: almost 4 out of 10 (44%) of those in favour of a mandatory death sentence for all murders did not choose death. Nor did two-thirds of those in favour of a discretionary death penalty choose death. Clearly, the majority of interviewees believed that no prior record, young age, and possibly influence of an older person were mitigating circumstances that should be taken into account.

Those who chose death obviously did not accept that the circumstances were mitigating. They believed that he should take responsibility for his actions and the fact that he was so easily influenced showed that he did not deserve to live.

Furthermore, a minority of those who chose death (14 or 8%) felt that not only did he deserve it but that he might continue to commit grave crimes if not eliminated.

He committed murder at such a young age and was easily influenced. Such a person should not be in society. Hang him.

A 19 year-old is an adult, he have a mind of his own so his excuse is invalid.

Because he committed a crime by taking the advice of someone else. Because when you are over 18, no one can tell you to kill someone. You have to pay the consequences.

He is 19 years and already in a gang. When he gets older he will become a 'hit man' so it is best to end his life before he becomes more dangerous to society.

Yet only five respondents specifically mentioned the need to deter others, for instance:

Because he was supposed to know right from wrong and most of the crimes are being committed by that age group. Send a message – death.

Case 2: *A man aged 35 with previous convictions for violence and drug dealing deliberately shot dead a rival drug dealer who had failed to pay back a debt. He was convicted of murder.*

Table 11

Percentage in this case with an aggravating factor choosing the death penalty

Sentence Chosen	Favoured Mandatory Death Penalty	Favoured Discretionary Death Penalty	Opposed to Death Penalty	Total Number	Per cent
Death	90.4	74.8	1.9	355	71.0
Not Death	9.6	25.2	98.1	145	29.0
Total Number	125	322	53	500	100

Comment: In this serious case of deliberate killing by a mature man with previous convictions for violence and drug-dealing 90 per cent of those in favour of the mandatory death penalty chose death. But so did three-quarters of those who supported a discretionary death penalty. The main reasons chosen again stressed the deliberate nature of the crime and the criminal record of the offender, allied to his involvement in drugs. In 92 (26%) of instances those who chose the death penalty

also spoke of his involvement in drugs, which made him a ‘menace’, ‘dangerous’ or resistant to reform and therefore likely to repeat such a crime.

This is a repeat offender who was conscious of what he was doing. Therefore he deserves the death penalty

He has previously been in jail for previous convictions and didn’t learn from that and then killed another man with intent he should be given the mandatory sentence.

He killed for no reason and did it with intent. He valued a man’s life to a small debt.

He have previous convictions and would continue to do the same thing over and over so he deserves to die.

Menace to society. Would only keep doing criminal acts. Such a person needs to be hanged.

Because he has been convicted before and he is a danger to society and this was a premeditated murder it makes no sense giving him another chance so he deserves the death penalty.

Yet again only a tiny minority - (2.3%) of those that chose death - mentioned the possible impact of a death sentence on others as one of the reasons:

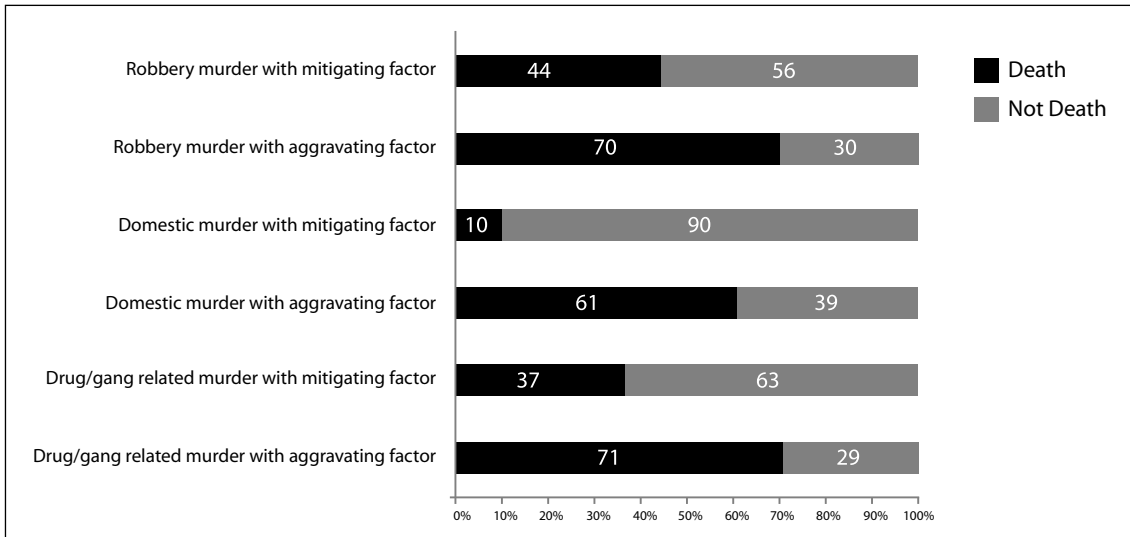
Drug dealing is illegal; he has been convicted of violence before. He had planned to kill the man and should be punished by death because he is also a menace to society and be used as an example for others.

It should be noted, however, that the proportion of all interviewees who chose the death penalty (71%) in this serious case was still 18 percentage points lower than the 89% who said that they were in favour of the death penalty when asked generally about it.

9. Conclusions drawn from the scenario decisions

- Figure 2 summarises the percentage of respondents who thought that the death penalty was the right sentence to be imposed in each scenario case.

Figure 2
Percentage of all respondents who chose the death penalty or not



- One thousand people decided whether they thought that the death penalty was the appropriate penalty to impose on each of three scenarios of cases which under current law would attract a mandatory sentence of death– 3,000 decisions in all. They imposed death in 1,463 instances, just under half (49%) of those they were called upon to decide. Furthermore, as shown in Figure 2, in the scenario cases in which there were *no* mitigating, but *aggravating*, circumstances presented, the highest proportion of respondents who chose the death penalty was 71 per cent. And in those in which *there was a mitigating circumstance* fewer than half the respondents considered the death penalty to be the appropriate sentence. Thus support for the death penalty in reality is much lower than the 89 per cent suggested when asked simply whether they were in favour of the mandatory or discretionary death penalty.
- Looking at the three decisions each made by the 264 persons (792 decisions) who had said that they were in favour of the mandatory death penalty – nearly all strongly in favour - the death penalty was actually chosen by them in just over two-thirds (68%) of their decisions.
- But in fact support for it being mandatory in ALL cases was much less than this. Of the 264 who generally favoured the mandatory death penalty, only a minority

of them - 103 (39%) – actually considered it to be the appropriate sentence for all three of the scenario cases on which they were asked to pass judgement. If we were to regard this 103 as the stalwart supporters in reality of the mandatory death penalty they would represent only about one in ten (10.3%) of all 1,000 persons interviewed for this survey.

- Taken as a whole, including those who favoured a discretionary death penalty and those who opposed the death penalty, only 215 interviewees (22%) of the 1,000 people who judged these cases chose the death sentence in all three of the scenario cases. In other words about 80 per cent did not in reality impose an inflexible system of mandatory death for murder.
- It was clear from the reasons given for preferring a sentence of death when judging these cases, that the primary reason was that they ‘deserved it’ for their deliberate action and in some cases their prior history of offending. A secondary, but much less often mentioned reason, cited in only 1 in 7 of the death penalty decisions [202/1463], was ‘to rid society’ of repeat serious offenders who might commit more grave crimes if not put to death. But hardly anyone (only 19/1463, or a mere 1.3 per cent) appeared to base their decision to impose the death penalty because it was necessary to deter other persons from committing murder.

10. Felony murder – Joint enterprise

Another way of looking at whether those who favoured the mandatory death penalty really would support it in every circumstance in which a person was convicted of murder was to give them, in rotation, one or other of two examples of a crime where a party to the killing had not dealt the death blow, but who was involved in the event and thus, under the law of the Republic of Trinidad and Tobago, sentenced to death on being convicted for murder.

Case 1:

Leroy and Marcus, two 23 year old men were liming when Darren appeared, who Leroy did not like. Leroy and Darren started arguing over a young woman they were interested in. A fight began during which Leroy pulled out a knife and stabbed Darren to death. Marcus had shouted to Leroy “go on”, but otherwise simply stood and watched, making

no attempt to intervene. However, both Marcus and Leroy were subsequently convicted of the murder of Darren.

Table 12
Percentage agreeing with conviction for murder

Conviction of Marcus	Per cent
<i>Guilty of murder - just like Leroy because he let Leroy kill Darren</i>	39.8
<i>Guilty of manslaughter - a less serious offence than murder which carries a lighter sentence</i>	47.0
<i>Not guilty of murder or manslaughter -since he did not attack Darren</i>	12.4
<i>Don't know</i>	0.6
Total Number	500

Altogether, less than half (40%) of the persons who responded to this case thought that Marcus was rightly convicted of murder, for which under Trinidad and Tobago law he would have had to be sentenced to death. There was a large difference however between the minority who favoured a mandatory death penalty and those who supported a discretionary death penalty: 56 per cent of the former 139 persons believed that Marcus had rightly been convicted of murder but only 35 per cent of the latter 317, and 24 per cent of the 45 who were totally opposed to the death penalty.

Case 2:

Ricardo and Emmanuel decided to rob a bank. Emmanuel, who knew that Ricardo had a gun, drove them to the bank and waited outside in the car. Ricardo went in, waved the gun and demanded that the cashier hand over money. The cashier pressed the alarm bell. Ricardo shot her dead and ran out of the bank. He jumped into the car and was driven away by Emmanuel. Both Ricardo, the killer, and Emmanuel, the driver, were subsequently convicted of the murder of the cashier and robbing the bank.

In this case, just under half (47%) of the 500 persons who made a judgment thought that Emmanuel had appropriately been convicted of murder, but again the proportion was higher for the minority who favoured a mandatory death penalty (65% of the 125), compared with 41 per cent of the 329 who endorsed a discretionary system, and 33 per cent of the 46 who opposed the death penalty.

Table 13
Percentage agreeing with conviction for murder

Conviction of Emmanuel	Per cent
<i>Guilty of murder - just like Ricardo because he participated in the robbery even though he didn't shoot the cashier</i>	46.6
<i>Guilty of manslaughter - a less serious offence than murder which carries a lighter sentence</i>	30.9
<i>Guilty of robbery but not murder or manslaughter -since he (Emmanuel) did not shoot the cashier</i>	22.8
<i>Don't know</i>	0.6
Total Number	500

Overall, it was clear that there is no overall majority of Trinidadians who favour the law that defines crimes in which the person was not immediately involved in the killing as murder, especially when the death penalty is mandatory.

11. An alternative to the death penalty?

Respondents were asked what type of penalty they would chose for murder if the death penalty were to be abolished. They were given four choices and asked to rank them by preference (see Table 14). The most popular first choice, by half those interviewed was mandatory life imprisonment without the possibility of parole. A third favoured parole being possible and 16 per cent chose a determinate sentence between 10 to 30 years to be decided by the judge, and to be served in full.

As expected a considerably higher proportion of those who had favoured the mandatory death penalty (69%) chose mandatory life imprisonment without parole, than those who had endorsed a discretionary death penalty, under half of whom (45%) favoured such a severe sentence.

Table 14
First choice alternative penalty to replace the death penalty if it were to be abolished

Alternative	Per cent
Life imprisonment with release through a parole board	18.1
Life imprisonment through a parole board but minimum term to be set by the judge	15.3
Determinate period of imprisonment of between 10 and 30 years without parole, to be set by the judge	15.8
Mandatory life imprisonment for whole of life without the possibility of parole	49.7
No choice made	1.1
Total Number	1000

Further light on the choice of alternatives was shed by the responses to the scenario cases. Table 15 shows what sentences were chosen by those who did not think that death was the appropriate punishment, despite the fact that under the current law the mandatory punishment is death in all cases. We have grouped the cases into those which had a mitigating element and therefore where a relatively low percentage of respondents sentenced the offender to death, as opposed to those without the mitigating factor and instead an aggravating element.

This showed that only in the cases with no mitigation and some aggravating feature did over half the respondents who did not choose death choose instead ‘life imprisonment without the possibility of parole’, and in only one case did as many as over 70 per cent of them do so. In all the cases with a mitigating factor, less than half chose such a severe penalty.²⁰

It is clear, therefore that the public would not support the replacement of the mandatory death penalty with a mandatory sentence of life imprisonment without the hope of any possibility of release on parole for all cases where there was a conviction for murder. But they would support it as one of the discretionary alternatives to the death penalty.

Table 15
Alternative sentence chosen by those not choosing the death penalty
in the six scenario cases: percentage

	Life without parole	Life with parole	Determinate prison sentence	Other	Number of decisions
Robbery 1 with mitigation	37.7	42.7	18.5	1.1	281
Domestic 1 with mitigation	11.1	38.7	40.0	10.2	452
Drug-related 1 with mitigation	24.0	43.8	30.6	1.6	317
Robbery 2 without mitigation	60.1	27.7	10.8	1.4	148
Domestic 2 without mitigation	55.4	28.2	15.4	1.0	195
Drug-related 2 without mitigation	71.7	14.5	13.1	0.7	145

²⁰ Also, it was noted that among 137 respondents who said they were in favour of a discretionary death penalty but nevertheless did not impose it on any of the three scenario cases they dealt with, 42 (31%) remarked that they thought that lifelong imprisonment would be a better – more – severe sentence than death.

IV CONCLUSIONS

- Only a minority of Trinidadians, close to a quarter, favour the current law under which the death penalty is mandatory for all murders whatever the circumstances. The proportion of the 1,000 persons interviewed who thought that the death penalty was the appropriate punishment for all three crimes they were asked to judge was only 1 in 5.
- The majority, 62 per cent, favour the death penalty being a discretionary sentence available to the court. They comprise 70 per cent of all those in favour of retaining the death penalty in Trinidad and Tobago.
- Only 11 per cent of respondents said that they were opposed to the death penalty altogether, and this increased only to 12 per cent when respondents were told of the large number of other countries that have now abolished capital punishment.
- The depth of this support was tested by asking respondents to say what sentence they would impose on three scenario cases of murder. This showed that a lower proportion supported capital punishment when faced with making a decision about whether to impose it:
 - Three quarters of the 1,000 persons who each judged three scenario cases did impose the death penalty on at least one of them, but one quarter did not impose death in any of the three cases. Well under half of those who made decisions in cases where there was a mitigating factor chose death as the appropriate penalty: the majority did not, and
 - No more than 71 per cent of those presented with the worst examples of murders chose the death penalty as the most appropriate punishment.
- Thus, when faced with making decisions, the level of support for the death penalty found in this survey is not very different from the findings of the poll of 509 Trinidadians, conducted by telephone between February 3rd – 6th 2011, and

commissioned by the ANSA McAL Psychological Research Centre of the University of the West Indies St Augustine, which found that 19 per cent were not in favour of the “resumption of hangings in Trinidad and Tobago”: 72 per cent said ‘Yes’ and 9 per cent that they ‘don’t know’.²¹

- The main reason given for regarding the death penalty as the appropriate punishment for murder in the cases that the interviewees were asked to judge was retributive – a deserved punishment for taking a life. This was reflected in the fact that when asked whether they would continue to support the death penalty if it were proven that innocent people had in fact been executed, a large proportion said no. Indeed, overall support for capital punishment if this were to be the case would be a mere 35 per cent of the population: a far cry from the 89 per cent who claimed that they favoured it.
- Five findings support the conclusion that deterrence of others is not, as many politicians in Trinidad and Tobago according to press reports appear to believe, an important reason why members of the public support the death penalty.²²
 - First, those who favoured the mandatory death penalty placed deterrence of others very low down on their list of reasons: well below retribution.
 - Second, when asked what their view would be if the death penalty were shown by new scientific evidence not to have an extra deterrent effect above long imprisonment, the majority of supporters of capital punishment, especially of the mandatory death penalty, said that this information would not make them change their mind.
 - Third, that when they were asked to judge scenario cases and to give their reasons for choosing a death sentence as the appropriate punishment only a tiny proportion (just over one per cent) spontaneously mentioned its likely restraining effect on others.

²¹ ‘Govt gets support from the people... Bring back hangings,’ Trinidad Guardian Opinion Poll conducted by UWI Psychological Research Centre, *Sunday Guardian*, February 20, 2011, pp. A6-A7.

²² See http://www.trinidadexpress.com/news/_Death_penalty_will_be_a_deterrent_-101136414.html

- Fourth, supporters of the death penalty were in favour of retaining it even though three-quarters of them thought that it would be easier to convict persons of murder if it were to be abolished.
- Fifth, when asked which of several policies they thought would be the most effective in controlling violent crime leading to death, only just over a third (36%) of those who favoured the mandatory death sentence stated '*a greater number of executions of murderers*', and the proportion among all 1,000 respondents was only about one in five (21%). The most favoured approach was through social policies that would provide better moral education for young people.

It is clear that at present the majority of Trinidadians favour a discretionary death penalty. The findings reveal that a majority of persons interviewed did not support the use of the death penalty in all cases involving violent robbery, planned domestic murders, or drug/gang killing, preferring to take into account mitigating factors, such as age, severe provocation and previous good character. This suggests that they would be unlikely to favour a mandatory system even for a smaller class of murders defined rigidly by statute, such as those involved in the commission of a violent felony. Thus, the findings from this public opinion survey, when taken in conjunction with the two previous studies on the use of the mandatory death penalty for murder in Trinidad and Tobago, strongly support the abolition of the mandatory penalty and its replacement for the time-being until full abolition may be achieved, by a fairer and more parsimonious discretionary system.

APPENDIX 1: A NOTE ON THE METHODS USED

The survey interview

The interview schedule used for this survey (see Appendix 2) was initially designed by Roger Hood, then pre-tested by Florence Seemungal in Trinidad, and finally jointly agreed after consultation with several experts. The questions asked and the use of scenario cases and several other questions, suitably adapted to the situation in Trinidad, drew in part on other surveys on this subject, including the recently conducted large-scale public opinion survey on the death penalty in China, carried out by the Max-Planck Institute for Foreign and Comparative Criminal Law in Freiburg –I -Br Germany to which Roger Hood had been consultant.²³ Valuable suggestions in relation to the questions asked were received from Dr Dietrich Oberwittler of the Max-Planck Institute, Professor Michael Radelet of the University of Denver, Professor Julian Roberts of the Centre for Criminology, University of Oxford, Professor Barry Mitchell of Coventry University and Tracy Robinson and Douglas Mendes SC, of the Faculty of Law University of the West Indies.

The allocation of the scenario cases to respondents needs some explanation. The three types case chosen (one involving a robbery-murder, another being a domestic-related murder, and the third involving an execution type murder related the illegal drug trade) each had an example in which there was a potential mitigating factor(s), and another example in which there was no mitigating factor but a potential aggravating factor(s): six scenarios in all. Half the interviewees were to be asked to judge a mitigating example of a case, and half to judge an aggravating example. In order to ensure that the overall responses were not affected by the order in which these examples were dealt with (someone who had judged a mitigating example of one case followed by an aggravating example of another case might react differently from someone who first received an aggravating example followed by a mitigating example), the cases were divided into eight categories representing the possible combinations of cases, and then randomly allocated to respondents in order of the interviewing sequence, thus:

1. Mitigating robbery, mitigating domestic, mitigating drug murder
2. Mitigating robbery, mitigating domestic, aggravating drug murder
3. Mitigating robbery, aggravating domestic, mitigating drug murder
4. Mitigating robbery, aggravating domestic, aggravating drug murder
5. Aggravating robbery, mitigating domestic, mitigating drug murder
6. Aggravating robbery, aggravating domestic, mitigating drug murder
7. Aggravating robbery, mitigating domestic, aggravating drug murder
8. Aggravating robbery, aggravating domestic. Aggravating drug murder

²³ See Dietrich Oberwittler and Shenghui Qi (2009), *Public Opinion on the Death Penalty in China. Results from a General population Survey Conducted in Three Provinces in 2007/08* (Forschung Aktuell/research in brief 41). Freiburg: Max Planck Institute for Foreign and International Criminal Law at http://www.mpicc.de/ww/en/pub/forschung/forschungsarbeit/kriminologie/death_penalty.htm

These 8 clusters of cases were successfully allocated so that each example was judged by half the respondents.

Similarly, the two scenarios used in the question about joint-enterprise were allocated to respondents sequentially, so that half the sample received one, and half received the other. These cases were adapted to fit the Trinidadian situation from similar cases used in a study of public opinion on murder in England and Wales, carried out by Professors Mitchell and Roberts.²⁴

Fieldwork:

The fieldwork was conducted by Market Facts and Opinions over a five-week period – November 16th – December 16th, 2010. The interviews were conducted by four teams which consisted of four interviewers and one supervisor.

Sample design:

It was decided to collect 1,000 interviews, which we calculated would yield a low confidence interval of 3.0 with a confidence level of 95%.

Market Facts & Opinions divided the country into nine broad geographic areas:

1. West Port of Spain
2. POS to San Juan
3. Mid East West Corridor
4. Far East
5. North Central
6. Other Central
7. San Fernando & East
8. South
9. Deep South

From these nine broad areas, locations were chosen by MFO using a multi stage process based on the county/ward/village/neighbourhood data and maps supplied by the Central Statistical Office (CSO). This ensured that the distribution of the sample was representative of the geographic distribution of the national population. The selection of neighbourhoods was based on the need for the sample to be representative of the Central Statistical Office's ethnicity breakouts. From these nine broad areas, locations are chosen based on the regional corporation/municipality/district//neighbourhood/street data. This information was supplied by the Government - Central Statistical Office (CSO) and MFO provided the interviewing teams

²⁴ Barry Mitchell and Julian Roberts, *Public opinion and sentencing for murder: An empirical investigation of public knowledge and attitudes in England and Wales*, at <http://www.nuffieldfoundaton.org/>

with CSO maps with the specified streets. The actual neighbourhoods were chosen using a “random number generator” computer programme. The programme randomly selected districts, which suit the ethnicity criteria, which in this case would match the national ethnicity breakdown. This ensured randomness and eliminated any bias that the interviewer might introduce.

After the neighbourhoods were selected the interviewing teams were sent to the specific streets. At the team briefing, the teams were given the list of neighbourhoods and quotas as to how many interviews were to be conducted in the specific neighbourhoods. The list of neighbourhoods also identified how many of each of the questionnaire versions (see above) were to be completed in the area. Supervisors were also given maps of the neighbourhoods so that they were aware of the streets which would be visited.

For example – A sample of Team 1’s neighbourhoods and quotas:

Loc Code		Location	SES	Quota
1	West of POS	Bayshore / Westmoorings	H	10
1		Champs Elysees / Fairways	H	10
1		Haleland Park / Moka	H	10
1		Four Roads, Diego Martin	Mid	20
1		Diamond Vale	Mid	20
1		Petit Valley	Low	15
1		St. James	M-Low	20
1		Belmont	Low	20

Households within the selected neighbourhoods were chosen by the field supervisor, using the random walk method, which, in turn, was dependent on the number of households to be surveyed in a given neighbourhood. In other words, if there were 20 households in a neighbourhood and the quota was 10, then every second house was surveyed.

Respondent selection:

Respondents were selected based on the ‘next birthday’ method. Once the selected household was identified, interviewers asked to speak to the member of the household who was over the age of 18 years and who would be celebrating a birthday next. If this person was not available, the interviewer made a note as to when would be a convenient time to return to the household to conduct the interview. If the targeted person was either unavailable after a call-back or refused to be interviewed the interviewer was instructed to select a substitute either from the same household (from amongst persons 18-65 who had the second next close birthday) or from another randomly selected household on the street selected for interviewing. No more than one interview was conducted per household. Records were kept of the results of every household visited as discussed in the section on quality control.

Interviewer training:

The teams, both interviewers and supervisors, attended a questionnaire briefing at which Florence Seemungal and Erna Kirk, the project manager assigned to the study, conducted the questionnaire briefing. Dr. Seemungal instructed the teams on the correct interview procedure using questionnaire samples. Erna Kirk explained the basic field guidelines. After the briefing session, the teams were paired and conducted one-on-one interviews amongst themselves. The questionnaires were reviewed and all concerns and questions were addressed by Dr Seemungal. Subsequently, after the first batch of interviews had been conducted by each team, they were reviewed by Ms. Kirk and any errors and concerns were dealt with.

Quality control:

Supervisors were responsible for ensuring that questionnaire was conducted accurately and that basic field procedure was adhered to. In addition, the supervisor was required to stay with his/her team throughout the administration of the questionnaires, and to conduct the initial field pre-edit of the questionnaire. Supervisors were also required to validate a proportion of the questionnaires in the field by visiting the respondent in order to ensure the interview had been conducted. The supervisors were required to report to the office on a daily basis in order to identify any problems or issues which may have occurred on the field. Another proportion of questionnaires were validated by in-office staff. Respondents were contacted by telephone in order to ensure that the interview was in fact conducted. After the validation period Dr. Seemungal reviewed the 1000 completed interview schedules and further queries regarding failure of the interviewers to ask questions on the schedule or items of information that were either missing or not re-coded on the interview schedule were identified by Dr. Seemungal. This was brought to the attention of MFO's staff members who followed up with those respondents who provided a contact number. This process ensured that as little information as possible was missing from the interview schedules.

Response rate and reliability:

Altogether the interviewing teams approached 1,530 persons to obtain 1,000 interviews: a highly satisfactory response rate of 65.4 per cent.

The data below, showing the proportion of persons in the sample with various characteristics compared with the proportion in the general population of Trinidad demonstrates that the sampling method used by MFO was very successful in ensuring that this survey of 1,000 Trinidadians was representative of the population of the country.²⁵

²⁵ We are most grateful to Kimberley Philip, Director of MFO, for providing this data and for her draft on which this note has drawn.

Source: CSO 2000 Census	Count within the Trinidadian population	% of total population	% of total sample of 1,000
Gender			
Male	606,283	50%	49%
Female	601,999	50%	51%
TOTAL	1,208,282	100%	100%
Age			
18 - 24 years	169,143	22%	21%
25 – 34 years	213,725	25%	24%
35 – 44 years	189,980	22%	25%
45 – 55 years	130,611	15%	18%
55 – 65 years	83,116	10%	12%
TOTAL	786,575	100%	100%
Ethnicity			
African	459,147	38%	37%
East Indian	483,313	40%	42%
Mixed/Other	265,822	22%	21%
TOTAL	1,208,282	100%	100%
Location			
West of Port of Spain	144,994	12%	13%
Port of Spain to San Juan	157,077	13%	14%
Mid East-West Corridor	205,408	17%	18%
Far East	60,414	5%	6%
North Central	120,828	10%	10%
Other Central	108,745	9%	9%
San Fernando East	108,745	9%	9%
San Fernando South	132,911	11%	11%
Deep South	120,828	10%	10%
Tobago	48,331	4%	0%
TOTAL	1,208,282	100%	100%

APPENDIX 2

THE INTERVIEW SCHEDULE

INTERVIEWER INSTRUCTIONS:

Interview Date	/	/ 10	Start Time	:	End Time	:
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Please introduce yourself and the project as follows:

I am from Market Facts and Opinions, a well-known Trinidadian company that has surveyed the opinions of people in Trinidad on a number of issues important to the community.

We are now carrying out, on behalf of the Death Penalty Project and the Rights Advocacy Project of the Faculty of Law of the University of the West Indies, an important survey of the opinions of the public on the use of the death penalty in Trinidad.

It has the full backing of the UWI Law Faculty. This is your chance to contribute to the debate. Your views will be greatly valued.

The interview will take about half an hour at the most.

May I speak with the person in your household who is aged between 18 and 65 and whose birthday is next?

S1. IF UNAVAILABLE, THANK, CIRCLE NEXT AVAILABLE NUMBER & MOVE TO NEXT CONTACT

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50

I assure you that everything that is told to me will be treated as **COMPLETELY CONFIDENTIAL** to the research project. I guarantee absolutely that nothing will be published in the final report that could identify you personally, nor will any personal details be stored on a computer by the researchers.

If you don't understand something I ask please do not hesitate to tell me. I will then explain the meaning of the question to you.

INTERVIEW FIELD NOTES

Please write legibly in the spaces provided or tick the number where necessary.

History of Interview:

Date of First Approach	/ / 10	Outcome	
Date of Second Approach, if applicable	/ / 10	Outcome	
Number of Persons in the Targeted Household			

Is Respondent	1	The initially targeted person in the survey?		
	2	A substitute from another household chosen at random?		
Interview validated	1	At interview site	Date of validation	/ / 10
	2	Via telephone	Date of validation	/ / 10
	3	Interview not validated		

Which of the following adjectives best describes the respondent's behaviour to the questions asked during the interview?

1. Collaborative
2. Reluctant
3. Passionate/Emotional
4. Nonchalant/Not too involved /Matter of fact

Interviewer please use the space provided below to add further field notes or areas of concern that arose during the interview session.

.....

Q1. ASK ALL: How interested are you in the issue of death penalty in Trinidad and Tobago?

Very interested	Interested	Not very interested	Not interested at all
1	2	3	4

Q2. ASK ALL: How well informed are you/ How much do you know about the use of the death penalty in Trinidad and Tobago?

Very well informed/ know a great deal	Quite well informed/ know something about it	Not well informed/ know little about it	Know nothing about it
1	2	3	4

Q3. ASK ALL: How often have you talked with other people about the issue of the death penalty?

Several/many times a year	At least once in a year	Less than once a year	I never talk about it
1	2	3	4

READ THE NEXT QUESTION TO ALL BUT ALSO SHOW IT ON THE CARD

<p><u>SHOWCARD</u></p> <p>The law in Trinidad and Tobago is that everyone who is convicted of a murder (<i>that means deliberately killing with intent or intending to do grievous bodily harm to someone who then dies</i>), regardless of the circumstances in which the crime took place, and regardless of their personal character and prior criminality, must be sentenced to death. The judge has no discretion. This is called the mandatory death sentence.</p>

Q4. **ASK ALL:** Do you agree with this? OR Do you think that the judge should be given some discretion based on the circumstances *of the offence and/or the offender* to decide whether to sentence a person convicted of murder to death?"

1	I agree with the mandatory death sentence for murder.	GO TO Q5
2	I am in favour of the death penalty but it should NOT be mandatory, the judge should have discretion whether or not to sentence someone convicted of murder to death, depending on the circumstances of the offence and the offender.	GO TO Q7
3	I am completely against the death penalty and would like to see it abolished.	GO TO Q12
4	I don't know/I have no opinion either way.	GO TO Q8

ASK QUESTIONS 5 and 6 ONLY TO RESPONDENTS WHO CHOSE OPTION 1 TO Q 4 (I agree with the mandatory death sentence for murder).

Q5. How strongly do you agree with the mandatory death penalty for all convicted of murder?

1	I agree with it very strongly
2	I don't feel very strongly but I still prefer it to giving the judge discretion

Q6. What are the main reasons why you agree with the mandatory death sentence for murder?

SHOW CARD. If there is more than one reason please put the most important first (1), the next second (2) etc.

MAIN REASONS	RANK
Murder is murder: <u>Everyone</u> who commits a murder should be treated the same otherwise it would be unfair.	
Unless the punishment is certain, <u>with no exceptions</u> , it will not be a powerful deterrent.	
There can be no excuses for murder <u>everyone</u> found guilty of it deserves to die.	
Judges vary too much in how they treat similar cases.	
This is the only way to make sure that <u>all</u> people who have had a close relative murdered can receive satisfaction.	

ASK Q7 ONLY TO THOSE WHO CHOSE OPTION 2 TO Q4 (... it should not be mandatory).

Q7. What are the main reasons why you disagree with the mandatory death sentence for murder?

SHOW CARD. If there is more than one reason please put the most important first (1), the next second (2) etc.

MAIN REASONS	RANK
Circumstances differ: not everyone who commits a murder deserves to die.	
Some people who commit a murder deserve another chance, they can be rehabilitated.	
The death penalty should be reserved only for those that have committed the most heinous or gruesome murders.	

The death penalty should be reserved only for those who could never be rehabilitated.	
Mitigating circumstances should always be taken into account.	

ASK QUESTIONS 8-10 ONLY TO THOSE PERSONS WHO SAID THAT THEY ARE IN FAVOUR OF THE MANDATORY OR DISCRETIONARY DEATH SENTENCE FOR MURDER (I.E. SELECTED OPTION 1 OR 2 TO QUESTION 4) AND TO PERSONS WHO HAD NO OPINION EITHER WAY OPTION 4 TO QUESTION 4).

Q8. Suppose that new scientific evidence proved that the death penalty was not a better deterrent than long imprisonment.

Would you then favour or oppose the use of the death penalty?

I would still/then strongly favour it	I would still/then somewhat favour it	I would still/then strongly oppose it	I would still/then somewhat oppose it	I don't know/I haven't an opinion
1	2	3	4	5

Q9. Suppose that evidence becomes available to prove that innocent people have in fact sometimes been executed. Would you then favour or oppose the use of the death penalty

I would still/then strongly favour it	I would still/then somewhat favour it	I would still/then strongly oppose it	I would still/then somewhat oppose it	I don't know/I haven't an opinion
1	2	3	4	5

Q10. More than half of the countries in the world have now abolished the death penalty completely and more are doing it every year.

Does this make any difference to your view on whether Trinidad and Tobago should follow this practice and abolish the death penalty completely, or not do so?

1	Yes: Trinidad and Tobago should follow this practice and abolish the death penalty.
2	No: What other countries are doing is not relevant in Trinidad and Tobago.
3	Not sure

ASK ONLY THOSE PERSONS WHO SAID THAT THEY ARE IN FAVOUR OF THE MANDATORY DEATH SENTENCE FOR MURDER (I.E. SELECTED OPTION 1 TO QUESTION 4) OTHERWISE GO TO QUESTION 12.

Q11. You said that you are in favour of the Mandatory Death Penalty, meaning that it is the only punishment that the judge can impose on someone convicted of murder.

Let me tell you that the mandatory death penalty has been abolished in other Caribbean countries or is in the process of being abolished leaving the decision whether to impose it for the very worst cases to the judge.

Does this make any difference to your view on whether Trinidad and Tobago should follow this practice and abolish the mandatory death penalty, or not do so?

Do you think that Trinidad and Tobago should follow this example?

1	Yes:	Should follow other Caribbean Commonwealth countries and abolish the mandatory death penalty.
2	No:	What other Caribbean Commonwealth countries have done is not relevant in Trinidad and Tobago.
3	Not sure	

ASK ALL RESPONDENTS QUESTIONS 12-16:

People have different ideas about the sentences which should be given to offenders. You will now be presented with several case examples and be asked about your personal opinion in each case.

Q12A. First Case: **Ask About case allocated: 1) OR 2).**

1) A man robbed a local shop with a gun and killed the owner by shooting him in the head. He took away with him 200 dollars cash. He had not previously been convicted of any crime. He was convicted of murder.

2) A man robbed a local shop with a gun and killed the owner by shooting him in the head. He took away with him 200 dollars cash. He had previously been in prison twice for robbery. He was convicted of murder.

Which sentence would you prefer/think he deserves? **SHOW CARD WITH RESPONSES**

1	A sentence of _____ years in prison [RESPONDENT TO SPECIFY]
2	Life imprisonment with the possibility of parole [eventual release under supervision] if found to be no longer a danger to society
3	Life imprisonment without the possibility of ever being released
4	Death sentence
	Other (SPECIFY)

ACCORDING TO WHETHER THE INTERVIEWEE CHOSE THE DEATH PENALTY OR ANOTHER SENTENCE, ASK ALL: Why did you/Why didn't you choose the death penalty?

.....

12B. Second Case: **Ask about case allocated: 1) OR 2).**

1) A woman who had been abused by her husband for many years decided to kill him by poisoning his food. A neighbour discovered the death of the husband and reported it to the police. She was convicted of murder.

2) A woman deliberately poisoned her husband, who died, so that she could be free to live with her lover. She was convicted of murder.

Which sentence would you prefer/think she deserves? **SHOW CARD WITH RESPONSES (as above for 12A).**

ACCORDING TO WHETHER THE INTERVIEWEE CHOSE THE DEATH PENALTY OR ANOTHER SENTENCE: ASK ALL: Why did you/Why didn't you choose the death penalty?

.....

Q12C. Third Case: **Ask about case allocated: 1) OR 2).**

1) A young man aged 19 deliberately shot dead a drug dealer who had failed to pay a debt. He had no previous convictions for violence and had said that he killed the victim on the orders of an older man. He was convicted of murder.

2) A man aged 35 with previous convictions for violence and drug dealing deliberately shot dead a rival drug dealer who had failed to pay back a debt. He was convicted of murder.

Which sentence would you prefer/think he deserves? **SHOW CARD WITH RESPONSES (as above for 12A)**

ACCORDING TO WHETHER THE INTERVIEWEE CHOSE THE DEATH PENALTY OR ANOTHER SENTENCE: ASK ALL: Why did you/Why didn't you choose the death penalty?

Q13. If the death penalty were to be abolished what would you replace it with?

Please show respondent the flash card and ask them to put their preferences in order: **Record 1 against the most preferred option, 2 against the second option, 3 against the third option, and 4 against the least preferred option on the interview schedule:**

MAIN REASONS	RANK
Life imprisonment with THE POSSIBILITY OF RELEASE IF THE PRISONER WAS FOUND TO BE NO LONGER A RISK TO SOCIETY. THIS WOULD BE DETERMINED BY AN INDEPENDENT BOARD consisting of a judge, a psychiatrist or psychologist, and independent citizens with experience in the criminal justice system.	
Life Imprisonment with a minimum period in custody to be served imposed by the Judge before release can be considered by AN INDEPENDENT BOARD IF THE PRISONER WAS FOUND TO BE NO LONGER A RISK TO SOCIETY. But the judge would still be able in the worst cases when passing sentence to order that the person should never be released.	
A definite sentence of imprisonment for between 10 and 30 years to be served in full, the length to be decided by the judge according to the gravity of the case.	
A mandatory sentence of life imprisonment for all cases of murder without the possibility of release on parole under supervision.	

Q14. In Trinidad and Tobago at present everybody convicted of murder must be sentenced to death whatever the circumstances. If the mandatory death penalty were to be abolished do you think that juries would be more likely to convict people of murder rather than manslaughter which they might now do to avoid the person being automatically sentenced to death?

1	Yes	2	No	3	Don't know
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Q15. Ask 1) OR 2) According to the one which you have been allocated.

1) I would like to ask you about a situation where two people take part in a crime which results in a murder:

Leroy and Marcus, two 23 year old men were liming when Darren appeared, who Leroy did not like. Leroy and Darren started arguing over a young woman they were interested in. A fight began during which Leroy pulled out a knife and stabbed Darren to death. Marcus had shouted to Leroy “go on”, but otherwise simply stood and watched, making no attempt to intervene. However, both Marcus and Leroy were subsequently convicted of the murder of Darren.

I would like to ask about Marcus who simply stood and watched but encouraged Leroy and made no attempt to stop him. Do you think he should have been found:

1	Guilty of murder – just like Leroy because he let Leroy kill Darren.
2	Guilty of manslaughter – a less serious offence than murder which carries a lighter sentence.
3	Not guilty of murder or manslaughter – since he did not attack Darren.
4	Don't know

2) I would like to ask you about a situation where two people take part in a crime which results in a murder:

Ricardo and Emmanuel decided to rob a bank. Emmanuel, who knew that Ricardo had a gun, drove them to the bank and waited outside in the car. Ricardo went in, waved the gun and demanded that the cashier hand over money. The cashier pressed the alarm bell. Ricardo shot her dead and ran out of the bank. He jumped into the car and was driven away by Emmanuel. Both Ricardo, the killer, and Emmanuel, the driver, were subsequently convicted of the murder of the cashier and robbing the bank.

I would like to ask you about Emmanuel who drove the car but who did not enter the bank. Do you think he should have been found:

1	Guilty of murder – just like Ricardo because he participated in the robbery even though he didn't shoot the cashier.
2	Guilty of manslaughter – a less serious offence than murder which carries a lighter sentence.
3	Guilty of robbery but not murder or manslaughter – since he did not shoot the cashier.
4	Don't know

Q16. Please rank on a scale of 1 to 5 which you think are the policies most likely to be able to reduce very violent crimes leading to death in Trinidad and Tobago.

Give '1' to the most likely, '2' to the next most likely etc. Please give a rank to each of these policies.

POLICIES	RANK
More effective policing to bring criminals to justice.	
Better moral education of young people.	
More effective policies to control the trade in drugs.	
More effective policies to control the possession of guns.	
Greater number of executions of murderers.	

FINALLY I would also like to ask you for a few personal details as we want to know whether men and women, people of different ages and ethnic backgrounds, and people with different religious beliefs have different opinions:

Respondent's Sex

1	Male	2	Female
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SHOWCARD What is your racial or ethnic inheritance?

1	East Indian	2	African	3	Mixed	4	Other
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How old are you (**EXACT AGE**)? _____

1	18 – 24 years	2	25 – 34 years	3	35 – 44 years
4	45 – 54 years	5	55 – 64 years	6	65 years

Are you a citizen of Trinidad and Tobago?

1	Yes	2	No
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If No: of what country are you a citizen? _____

How long have you lived in Trinidad and Tobago? _____ years

SHOWCARD How would you describe your working status?

1	Working - Full time (40+ hours per week)	6	On maternity leave/look after children
2	Working - Part-time (20-39 hours per week)	7	Pensioner/Retired
3	Working – Part-time (under 20 hours per week)	8	Unemployed
4	Student/Pupil	9	Refused
5	Housewife		

What is your normal occupation? _____ Record what they say.

SHOWCARD Where would you place your kind of work on this list?

Occupation Codes:

1	Sales Worker	7	Technician/Associate Professional
2	Service Worker	8	Self Employed
3	Farming/Agricultural Worker	9	Housewife
4	Skilled labourer/Craftsman	10	Student
5	Unskilled labourer	11	Retired/Pensioner
6	Professional		

What is your religion?

1	Roman Catholic	
2	Anglican	
3	Muslim/Islam	
4	Hindu	
5	Other Christian denomination	please specify
6	No religious belief	
7	Other Non-Christian	please specify

Locality of Residence

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Record which region the interview was conducted.			
1.	West of Port of Spain	6.	Other Central
2.	POS to San Juan	7.	San Fernando
3.	Mid East-West Corridor	8.	San Fernando South
4.	Far East	9.	Deep South
5.	North Central		

As I said at the beginning, your responses will be reported anonymously and you will not be identified personally in the final report. However, it would be useful if you could give me your telephone number solely for administrative purposes, so that if I have omitted a question or I need further clarification of your responses I can easily ring and ask you. I promise you that your name and phone number will not be recorded on any computer and this information will be destroyed on completion of the survey. If you don't want to give it, don't hesitate to say so.

Name:		Telephone #:	
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THANK YOU VERY MUCH FOR YOUR TIME.

THE AUTHORS

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This is the third study of the use of the mandatory death penalty for murder in Trinidad and Tobago to be published by the authors under the auspices of the Death Penalty Project and the University of the West Indies Faculty of Law.

The two previous studies, *A Rare and Arbitrary Fate: Conviction for Murder, the Mandatory Death Penalty and the Reality of Homicide in Trinidad and Tobago* (2006), and *A Penalty Without Legitimacy: The Mandatory Death Penalty in Trinidad and Tobago* (2009), had both demonstrated the ineffectiveness and arbitrariness of such an inflexible punishment and the lack of support for it among senior professionals in the criminal justice system. But to what extent did the general public support the mandatory death penalty? This has now been studied through a representative sample of 1,000 residents in Trinidad who were interviewed, face-to face, at the end of 2010.

It revealed that only a quarter of those polled (26 per cent) were in favour of the death penalty being the mandatory punishment on conviction for murder, whatever the circumstances of the case and the characteristics of those who committed the crime. A small minority of around 11 per cent were in favour of complete abolition of capital punishment, but the majority – 63 per cent – wanted the death penalty to be imposed only at the discretion of the court.

By employing a variety of questions, including asking the respondents to say what they thought the appropriate penalty should be in a series of ‘scenario’ cases, representing a robbery murder, a domestic murder, and a gang/drug-related murder, it became even more evident that the majority of Trinidad’s citizens did not support the death penalty being the only punishment for murder. The findings this study revealed, among others, that:

- The proportion of the population who thought that all three cases they judged should all be sentenced to death was only in five;
- Where the case had a mitigating circumstance, such as youth or no previous criminal record, less than half of those who judged such a case thought that the death penalty should be imposed;
- Even when a case had an aggravating factor, such as a previous prison sentence, no more than 71 per cent thought that death was the appropriate penalty: considerably fewer than the 89 per cent of citizens who initially expressed support for the death penalty;
- When interviewees were asked whether they would support the death penalty if it were proven that innocent persons had been executed, the proportion in favour dropped from 89 per cent to 35 per cent;
- The main reason why people supported the death penalty was retribution – desert and ‘a life for a life’. Very few mentioned deterring others from committing murder;
- Only one in five citizens thought that increasing the number of executions would be the best policy for combatting with serious violence leading to death in Trinidad and Tobago.